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July 2, 1990

Via Federal Express

Federal Election Commission
Office of General Counsel
999 E Street, N.W.
Washington, D.C. 20463

AOR 1990-13

Dear Sirs:

This is a request for an advisory opinion pursuant to 2 U.S.C. § 437(f) and 11 C.F.R. § 112.1 concerning the application of certain sections of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, et seq. ("FECA" or "the Act") to the Socialist Workers Party National Campaign Committee and committees supporting candidates of the Socialist Workers Party (the "SWP"). The SWP seeks an advisory opinion acknowledging that committees supporting candidates of the Socialist Workers Party continue to be entitled to the same exemptions and other provisions of the order, judgment and decree entered in 1985 in Socialist Workers 1974 National Campaign Committee v. Federal Election Commission, No. 74-1338 (D.D.C.). The failure to provide these protections would result in an unconstitutional application under the First

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Amendment of the reporting and disclosure provisions of FECA, 2 U.S.C. § 434, requiring, inter alia, public disclosure of the names and residential addresses, occupations, and business addresses of contributors (§ 434(b)(3)(A)), political committees or candidates (§ 434(b)(3)(B)(C)(D)), lenders, guarantors, endorsers (§ 434(b)(3)(E)), persons providing rebates, refunds or other offsets to operating expenditures (§ 434(b)(3)(F)), persons providing any dividend, interest, or other receipt (§ 434(b)(3)(G)) and persons to whom expenditures have been made (§ 434(b)(5)(6)).

Legal Framework

In Buckley v. Valeo, 424 U.S. 1 (1976), the Supreme Court recognized that the requirements of the Federal Election Campaign Act as applied to minor parties and independent candidates may be unconstitutional because of the danger of significant infringement on First Amendment rights. Buckley, 424 U.S. at 71. The Court recognized that "the governmental interest in disclosure is diminished when the contribution in question is made to a minor party with little chance of winning an election" 424 U.S. at 70. As the Court pointed out, the situation of minor parties is further unlike those of the major parties because "as minor parties usually represent definite and publicized viewpoints, there may be less need to inform the voters of the interests that specific candidates represent." Id.

The Court, while refusing to endorse a blanket exemption for all minor parties held that particular minor parties might present circumstances similar "to those before the Court in NAACP v. Alabama, [357 U.S. 449 (1958)] and Bates [v. Little Rock], 361 U.S. 516 (1960)], where the threat to the exercise of First Amendment rights is so serious and the state interest so insubstantial that the Act's requirements cannot be constitutionally applied", 424 U.S. at 71, providing as an example of such a case the allegations set forth in Doe v. Martin, 404 F.Supp. 753 (D.D.C. 1975) (three judge court), involving a branch of the Socialist Workers Party.^{1/} The Court described the required showing as follows:

Minor parties must be allowed sufficient flexibility in the proof of injury to assure a fair consideration of their claim. The evidence offered need show only a reasonable probability that the compelled disclosure of a party's contributors' names will subject them to threats, harassment, or reprisals

^{1/} The Martin case cited with approval by the Supreme Court concerned the constitutionality of portions of the 1974 District of Columbia Campaign Finance Reform and Conflict of Interest Act, Pub. L. 93-376, 88 Stat. 446, requiring, inter alia, every political committee to keep records showing the name, address and place of business of contributors of \$10 or more, the designation of a depository bank through which the political committee will conduct all of its financial business, and the filing of publicly available reports listing the name, address and place of business of each contributor of \$50 or more as well as civil penalties for non-compliance. See 404 F.Supp. at 755 n.1. In Doe, the plaintiffs asserted that the name, address and places of employment of those supporting the SWP "will be noted by the FBI and others and that inquiries or other detrimental social pressures will ensue affecting employment and privacy." 404 F.Supp. at 755. The court had before it affidavits showing that party members had been harassed by government agencies and private employers and the findings of the Minnesota Ethics Commission exempting the Minnesota Socialist Workers 1974 Campaign Committee from the disclosure requirements of the Minnesota Ethics in Government Act of 1974. See 404 F.Supp. at 756-57 at n.4.

from either Government officials or private parties. The proof may include, for example, specific evidence of past or present harassment of members due to their associational ties, or of harassment directed against the organization itself. A pattern of threats or specific manifestations or public hostility may be sufficient.

424 U.S. at 74 (emphasis added).

The Buckley test was applied to the disclosure provisions of a state campaign reporting statute in 1982 in a case involving the Socialist Workers Party. Brown v. Socialist Workers '74 Campaign Committee (Ohio), 459 U.S. 87 (1982). In Brown, the Court found that

[t]he District Court properly concluded that the evidence of private and Government hostility toward the SWP and its members establishes a reasonable probability that disclosing the names of contributors and recipients will subject them to threats, harassment and reprisals. There were numerous instances of recent harassment of the SWP both in Ohio and in other States. There was also considerable evidence of past Government harassment. Appellants challenge the relevance of this evidence of Government harassment in light of recent efforts to curb official misconduct. Notwithstanding these efforts, the evidence suggests that hostility toward the SWP is ingrained and likely to continue.

459 U.S. at 100-101.

The evidence leading to this controlling holding included the following:

- threatening telephone calls and hate mail;
- the burning of SWP literature;

- the destruction of SWP members' property;
- police harassment of a party candidate;
- the firing of shots at an SWP office;
- job firings of SWP members;
- a past history of government harassment including massive surveillance, and the conduct of a counterintelligence program against the SWP by the FBI;
- the extensive use of informers for the FBI against the SWP;
- the maintenance of massive files by the government on the SWP.

See 459 U.S. at 99-100.

Prior to the Brown decision, the United States Court of Appeals for the Second Circuit held that a campaign committee of the Communist Party could not be required to comply with the disclosure and record keeping provisions of FECA under the First Amendment. In Federal Election Commission v. Hall-Tyner Election Campaign Committee, 678 F.2d 416 (2d Cir. 1982), cert. denied, 459 U.S. 1145 (1983), the court considered the application of FECA to the campaign committee for the Presidential and Vice Presidential candidates of the Communist Party. In holding that this campaign committee could not be compelled, consistent with the First Amendment, to comply with the FECA's disclosure and recordkeeping provision, the court stated:

[W]e note that Buckley did not impose unduly strict or burdensome requirements on the minority group seeking constitutional exemption. A minority party striving to avoid FECA's disclosure provisions does not carry a burden of demonstrating that harassment will certainly follow compelled

disclosure of contributors names. Indeed, when First Amendment rights are at stake and the spectre of significant chill exists, courts have never required such a heavy burden to be carried because "'First Amendment freedoms need breathing space to survive.'" Keyishian v. Board of Regents, 385 U.S. 589, 604, 87 S.Ct. 684, 17 L.Ed.2d 629 (1967), quoting NAACP v. Button, 371 U.S. 415, 433, 83 S.Ct. 328, 338, 9 L.Ed.2d 405 (1963). Breathing space is especially important in a historical context of harassment based on political belief.

678 F.2d at 421-22. The Court then found that based upon "the treatment historically accorded persons identified with the Communist Party" and a survey of statutes purporting to subject Communist Party members to civil and criminal liability, the minimal government interest in obtaining the information could not justify the restraint upon the First Amendment rights of the committee and its supporters. 678 F.2d at 422. Indeed, the Court admonished the FEC that in light of this factual record, it had proceeded with an "appalling disregard for the needs of the free and open political process safeguarded by the First Amendment." 678 F.2d at 424.

Subsequent to the decisions in Buckley, Brown v. Socialist Workers Party 1974 Campaign Committee (Ohio) and Hall-Tyner, there have been no reported decisions raising the constitutionality of forced disclosures under FECA. In 1979 and again in 1985, the Federal Election Commission entered into voluntary consent decrees which acknowledged that the SWP was exempt under the First Amendment from disclosure under FECA. See Stipulation of Settlement, filed January 3, 1979, and

Stipulation of Settlement, filed July 24, 1985, in Socialist Workers 1974 National Campaign Committee v. Federal Election Commission, Civil Action No. 74-1338 (D.D.C.).^{2/}

In a series of decisions beginning in 1975 and continuing through last year concerning state law disclosure requirements, the SWP has been exempted from reporting requirements in Florida, Minnesota, Wisconsin, California, Washington, the District of Columbia, and Illinois. See, e.g., 1980 Illinois Socialist Workers Campaign v. State of Illinois Board of Election, 531 F.Supp. 915 (N.D. Ill. 1982); Wisconsin Socialist Workers 1976 Campaign Committee v. McCann; Doe v. Martin, 404 F.Supp. 753 (D.D.C. 1975); In Re Manual No. AE 77,005 (California Fair Political Practices Commission, March 1977); Socialist Workers 1974 Washington State Campaign v. Washington Public Disclosure Commission, Nos. 52,505, 54,772 (Wash. Sup. Ct., April, 1977) (transcript of oral opinion), AR at 427-59; In the Matter of Minnesota Socialist Workers 1974 Campaign Committee Request for Exemption, No. H-0001 (Minn. State Ethics Comm., October, 1974), AR at 692-97.^{3/}

Last year, the United States District Court for the Southern District of Florida held that election laws requiring disclosure of contributions or recipients were unconstitutional as applied to individuals associated with, or seeking to

^{2/} Various materials reflecting incidents of harassment and violence were submitted to the FEC in connection with that case.

^{3/} One court refused to grant the SWP an exemption. Oregon Socialist Workers 1974 Campaign Committee v. Paulus, 432 F.Supp. 1255 (D. Or. 1977).

associate with, the SWP and a campaign committee supporting an SWP candidate. The evidence there showed that "compliance with the challenged provisions would subject the plaintiffs to threats, harassment and reprisals from private persons. This evidence completely satisfies the Supreme Court's test. . . ." McArthur v. Smith, 716 F.Supp. 592, 594 (S.D. Fla. 1989).

Factual Background

1. Facts With Respect to the SWP

The SWP has consistently nominated and run candidates for elective office since it was founded in 1938 and has had a candidate in every presidential race since 1948, and numerous other federal, state, county and municipal offices. No SWP candidate has ever been elected to public office in a partisan election and the votes recorded for the candidates of the SWP remain quite small. In the three most recent Presidential elections, the SWP candidates received 15,604 votes in 16 states in 1988, 24,681 votes in 24 states in 1984, and 40,105 votes in 29 states in 1980.^{4/} The SWP has asserted its First Amendment right not to disclose names of contributors or recipients since the FECA was enacted, and no SWP campaign committee has ever disclosed contributors' names or recipients under FECA.

^{4/} In the 1988 senatorial elections, SWP candidates received 11,239 votes in New York, 5,192 votes in New Jersey, 4,821 votes in Michigan, 3,105 votes in Minnesota, 3,026 votes in Wisconsin and 1,233 votes in Utah.

In addition to participation in election activities such as petitioning, literature distribution, speaking engagements and the like, SWP candidates have been faced with formidable barriers to their appearing on ballots such as loyalty oaths and overly burdensome requirements. These barriers have resulted in substantial litigation over the years.^{5/}

^{5/} These cases include: Socialist Workers Party v. Hechler, 890 F.2d 1303 (4th Cir. 1989), cert. denied, ___ U.S. ___, 110 S.Ct. 2173 (1990); Munro v. Socialist Workers Party, 479 U.S. 189 (1986) (upholding requirement that minor-party candidate receive at least 1% of all votes cast in primary before candidate's name placed on general election ballot); Illinois State Board of Elections v. Socialist Workers Party, 440 U.S. 173 (1979) (challenge to petitioning requirements); Jenness v. Fortson, 403 U.S. 431 (1971) (challenge to petitioning requirements); Socialist Workers Party v. Hardy, 607 F.2d 704 (5th Cir. 1979) (challenge to loyalty oath for candidate); Socialist Workers Party v. March Fong Eu, 591 F.2d 1252 (9th Cir. 1978), cert. denied, 441 U.S. 946 (1979) (challenge to ballot requirements); Socialist Workers Party v. Hill, 483 F.2d 554 (5th Cir. 1973) (challenge to loyalty oath); Socialist Workers Party v. Davoren, 378 F.Supp. 1245 (D. Mass. 1974) (challenge to petitioning requirements); Baird v. Davoren, 346 F.Supp. 515 (D. Mass. 1972) (challenge to ballot requirements); Jennes v. Miller, 346 F.Supp. 1060 (S.D. Fla. 1972) (challenge to filing fee); Socialist Workers Party of Illinois v. Ogilvie, 357 F.Supp. 109 (N.D. Ill. 1972) (challenge to age requirements); Socialist Workers Party v. Welch, 334 F.Supp. 179 (S.D. Tex. 1971) (challenge to property requirements and registration fee for candidates); Socialist Workers Party v. Rockefeller, 314 F.Supp. 984 (S.D.N.Y.), aff'd, 400 U.S. 806 (1970) (challenge to petition requirements); Socialist Workers Party v. Hare, 304 F.Supp. 534 (E.D. Mich. 1969) (challenge to petition requirements); Jenness v. Little, 306 F.Supp. 925 (N.D. Ga. 1969), appeal dismissed, 397 U.S. 94 (1970) (challenge to filing fee); Socialist Workers Party v. Secretary of State, 412 Mich. 571, 317 N.W.2d 1 (1982).

2. The Harassment and Hostility Directed At the SWP and It's Members

In view of the history of the United States over the past five decades, it is beyond dispute that the FECA cannot be constitutionally applied to require the disclosure of the contributors to the campaigns of candidates of the Socialist Workers Party, or recipients of disbursements, particularly in view of the decisions of the Supreme Court in Brown v. Socialist Workers Party '74 Campaign Committee (Ohio), 459 U.S. 87 (1982) and Buckley v. Valeo, 424 U.S. 1 (1976). This history makes apparent that there is a reasonable probability that disclosing the names of contributors and recipients will subject them to threats, harassment or reprisal. It is that history which we now briefly summarize, mindful of the Supreme Court's conclusion after reviewing part of this history in 1982 that this "hostility toward the SWP is ingrained and likely to continue." Brown, 459 U.S. at 101.

For decades the SWP and its supporters have been selected out for investigation and harassment by the government, subjected to repeated violations of their civil and constitutional rights, their landlords and employers interviewed repeatedly, their homes and offices burglarized by government employees, their political plans, events and relations affirmatively disrupted by government employees, their telephones and offices tapped and bugged, their files stolen and their ranks infiltrated by government informers. This governmental and private animus was intended to, and did,

interfere with individuals lives and employment and continues in the form of harassment and violence directed at the SWP, its candidates and its supporters.

Beginning in 1941, the Federal Bureau of Investigation began a generalized investigation of the SWP which was to last for at least the next 35 years. Socialist Workers Party v. Attorney General, 642 F.Supp. 1357 (S.D.N.Y. 1986).^{6/} The investigation began in roughly the same time period that 18 members of the SWP were prosecuted and convicted for conspiring to advocate the violent overthrow of the government under the Smith Act, 18 U.S.C. § 2385. Dunne v. United States, 138 F.2d 137 (8th Cir. 1943), cert. denied, 320 U.S. 790 (1943).

In the course of its investigation, the FBI amassed over 8 million documents. Between the years 1960 and 1976, the FBI employed approximately 1,300 informers, of whom approximately 300 became or were members of the SWP, paying over \$1.6 million to the informers alone. The informers routinely and regularly reported upon the lawful political activities, discussions, and debates of the SWP as well as

^{6/} The facts concerning the government's generalized investigation of the Socialist Workers Party are drawn from this decision unless otherwise noted. In 1976, over the objections of the FBI, the Attorney General ostensibly terminated the generalized domestic security investigation of the SWP, 642 F.Supp. at 1400. In doing so, he specifically left open the possibility of reopening the investigation in the future, instructing that information concerning an asserted link between the SWP and a foreign-based political group "should be carefully watched" and that the emergence of "new facts or circumstances" may "justify investigation" and "a reconsideration would be in order." 642 F.Supp. at 1401.

reported the names, addresses, descriptions and places of employment of members and their families. The informers reported, again on a regular basis, a host of personal information including information on marital or cohabitational status, marital strife, health, travel plans and personal habits.^{7/}

The SWP was also the subject of the Counterintelligence Programs implemented by the FBI over a period of at least 25 years. The avowed purpose of the program was to disrupt "the SWP on a national, as well as local level." Socialist Workers Party v. Attorney General, 642 F.Supp. at 1384. Under the Cointelpro Program directed specifically at the SWP,^{8/} at least 46 specific disruption operations were conducted by the FBI. The disruption included, among other activities,^{9/} attempts to embarrass SWP candidates, cause the arrest of candidates, foment racial strife within the SWP and between the SWP and other groups, and cause strife between SWP supporters and others in a variety of political movements and coalitions.

^{7/} Annexed as Exhibit A hereto is the Report of the Special Master in the litigation against the Attorney General, the Honorable Charles D. Breitel. This report was prepared at the direction of the district court on the basis of a review of 18 informer files which served as a representative summary of the total of 1,300 informer files amassed between 1960 and 1976.

^{8/} The SWP was also targeted for disruption under the auspices of the Cointelpro Programs directed against the Communist Party and the "New Left." 642 F.Supp. at 1385.

^{9/} An overview of the disruption activities is set forth in Socialist Workers Party v. Attorney General, 642 F.Supp. at 1385-1389. A more detailed description of many of the disruption activities can be found in Nelson Blackstock, COINTELPRO: THE FBI'S SECRET WAR ON POLITICAL FREEDOM (Vintage Books 1976).

For a period of approximately 20 years the FBI conducted warrantless electronic surveillance of the SWP, the conventions and National Committee meetings of the SWP, the home telephones of a number of leaders, the office of one leader and the hotel rooms of other leaders. 642 F.Supp. at 1389-90. In total, electronic surveillance was conducted for 32,000 days. Id. The electronic eavesdropping resulted in the collection of all manner of information on political matters as well as a host of information on more personal matters.

In the same time period, the FBI conducted at least 204 black bag jobs, i.e., burglaries of the offices of the SWP. 642 F.Supp. at 1393. These burglaries were, of course, not the only means by which the government obtained documents; the informers regularly provided documents to the FBI and indeed themselves stole documents which were then given to the FBI. 642 F.Supp. at 1382.

From 1940 until at least 1976, the FBI maintained lists of the names, addresses, and employers of SWP members -- variously identified on the Custodial Detention List, the Security Index and the Administrative Index -- which targeted individuals for detention in the event of a "national emergency." 642 F.Supp. at 1395. The purpose of these lists was to identify those individuals "considered by the FBI to be . . . potentially dangerous to the public safety and the internal security of the United States." Id. From at least 1946 until 1976, membership in the SWP was a basis for inclusion on these list. Id. Aside from the designation

itself and the potential for detention of the individual, the fact of listing led to interviews of the individuals' landlords and employers which, at least until 1971, were conducted every 45 days. 642 F.Supp. at 1395.

Beginning in 1948, the SWP was included on the Attorney General's list of organizations designated pursuant to Executive Order 9835 establishing the Employee Loyalty Program for certain employees of the executive branch of the government.^{10/} Under the program, an employment application by a member of a listed organization was subjected to a full field investigation by the FBI, questioned concerning his or her loyalty and this fact was used to determine whether to hire the individual.^{11/} 642 F.Supp. at 1396-97.

^{10/} E.O. 9835 provided that in determining loyalty to the government, one of the factors to be considered was an individual's membership in an organization designated by the Attorney General

as totalitarian, fascist, communist, or subversive, or as having adopted a policy of advocating or approving the commission of acts of force or violence to deny others their rights under the Constitution of the United States, or as seeking to alter the form of government of the United States by unconstitutional means.

Executive Order 9835 was subsequently amended by Executive Order 10241 and superceded by Executive Order 10450 so as to include all government civilian employees. The Attorney General continued to maintain his list including the SWP throughout these changes.

^{11/} There have been a number of instances in which the fact of the individual's association with the SWP affected his or her employment. See 642 F.Supp. at 1398-99.

Even after the Attorney General's list was terminated in 1974, the FBI continued to report an individuals' membership in the SWP. In later years, the FBI is prepared to described the SWP as follows:

The SWP is a revolutionary, Trotskyist-communist organization which has as its purpose the overthrow of the U.S. Government and the institution of a dictatorship of the working class and the eventual achievement of a communist society.

The FBI ceased investigating the YSA/SWP in September 1976, pursuant to the Attorney General's Guidelines for Domestic Security Investigations. Therefore, receipt of an allegation that an individual is a member of the YSA/SWP would no longer warrant an FBI investigation.

642 F.Supp. at 1399.^{12/}

It is, of course, against this extensive background of government harassment that any application of FECA must be gauged. Standing alone this background provides an overwhelming basis for non-disclosure under FECA. Indeed, as noted earlier, the history of political life in this country over the last five decades makes clear that persons associated with the SWP are reasonably probable to be the subject of harassment or threats from the government or private individuals.

^{12/} In 1986, after 13 years of litigation, the SWP received a damages award for the violations of its rights against the United States for the acts of the FBI in burglarizing its premises, conducting affirmative disruption operations against it, and employing informers to report on the SWP, its members, meetings and activities.

Lest there be any question that this general and specific hostility which has been part of national policy for decades has continued, we briefly address some of the manifestations of this hostility in just the last few years.

As recently as 1987, in opposing a prohibition on the use of information obtained illegally by the FBI, the federal government asserted an interest in and need to know and record the names of members and individuals associated with the SWP. See Socialist Workers Party v. Attorney General, 666 F.Supp. 621, 623 (S.D.N.Y. 1987). The government asserted its needs because, in its words, "it was -- and is -- reasonable for the FBI and other agencies of the Government to believe that the SWP and its members have a revolutionary ideology whose goal is the violent overthrow of our democratic processes and form of government." Ex. B at 9. In the government's view, this "revolutionary ideology . . . poses a threat to the fundamental interest of self-preservation," id. at 10, and the information on members was still essential to the government's loyalty-security program. Id. at 10-11.

Representatives of various government agencies expressed their intent to use such information, and their fundamental antagonism toward the SWP in clear terms. For example, the Office of Personal Management argued that such "information [is] important because these organizations in the past were opposed to our form of Government and the national interest." Declaration of Gary B. McDaniel ¶ 6, Exhibit C hereto. The Department of State asserted its need for access

to these files because of a need for information about, in its representative's words, "interaction with a group advancing a hostile ideology" for security clearances, and "information about any hostile organization which has consistently posed a threat to free governments. . . ." Declaration of Roger H. Robinson, ¶¶ 4, 6, Exhibit D hereto. The Immigration and Naturalization Service claimed a need to know the identities of SWP supporters in order to enforce laws making an individual who advocates world communism or the establishment of totalitarian dictatorship deportable from this country, excludable from this country or ineligible for naturalization. Declaration of Edwin W. Dornell, ¶¶ 5, 6, Exhibit E hereto.^{13/} See also Exhibit F, Declaration of Thomas J. O'Brien ¶¶ 3-9 explaining need for access to FBI files on the SWP because they "may serve to corroborate or establish an affiliation with "an organization "characterized by Executive Order 10450" for the purposes of investigations of members of the armed services, civilian employees and employees in industry by the Defense Investigative Service.

^{13/} See 8 U.S.C. §§ 1182(2)(28) (D) and (F), 8 U.S.C. § 1251(a)(6)(D) and 8 U.S.C. § 1424(a)(3). There are numerous statutes in addition to these immigration provisions which place supporters of the SWP in danger of legal sanctions or harassment if their associations were made public. In addition to the Smith Act, 18 U.S.C. § 2385, there is a host of other legislation which potentially expose individuals to civil and criminal sanctions. See discussion in FEC v. Hall-Tyner Election Campaign Committee, 678 F.2d at 422 and statutes surveyed in Appendix to Brief of Defendants-Appellee filed in that case.

In ordering that illegally obtained information in the files amassed by the FBI not be made public or used in any way,^{14/} the court specifically included in its order a presumption that the identity of "members" of the SWP were presumed to be protected from disclosure precisely because such information was not made public by the SWP and the individuals and precisely because such information was a primary goal of the extensive use of informers outlined previously. 666 F.Supp. at 626.

These assertions of need and pronouncement of intended uses, make clear that, at least in the government's view, membership in and association with the SWP still provides a basis for harassment on the job, investigation and other deleterious impacts.^{15/} Indeed, where the government characterizes the SWP as a "hostile organization which has

^{14/} The order provided that the information could not be used except pursuant to a court order or in response to a Freedom of Information Act, 5 U.S.C. § 552 request. Of course, FOIA itself provides privacy protection. See 5 U.S.C. § 552a.

^{15/} The potential negative impacts of even a minor association with the SWP continues as is illustrated in Clark v. Library of Congress, 750 F.2d 89 (D.C. Cir. 1984). There, a relatively low level employee of the Library of Congress was subjected to a full investigation by the FBI and apparently refused promotions to numerous low level positions based on the individual having attended several meetings of the Young Socialist Alliance (a group supportive of the SWP) and his name appearing on a mailing list of that group. Moreover, as the district court indicated in Socialist Workers Party v. Attorney General, there may be situations in which the fact of association with the SWP would be the subject of inquiry in a loyalty-security investigation in connection with employment. See 642 F.Supp. at 1427-28 outlining the factors which would be relevant.

consistently posed a threat to free governments", the reasonable probability of negative consequences from disclosure is readily apparent.

An equally open indicator of the reasonable probability of harassment is reflected in an article published in the Midlands Business Journal of April 21-27, 1989. The article promotes a security firm's services in connection with labor disputes and urges the companies to "screen" their employees. The services offered include access to an "extensive data base and information index on violent domestic organizations and communist and Marxist groups. . . ." including both names and photographs. Exhibit G. The security firm identified as an example of the problems the firm addresses the "local union involved in the strike against Hormel [which] was absolutely infiltrated by the Socialist Workers Party, which is largely Marxist/Leninist", and claimed that in another case purportedly involving "sabotage of products", they checked their index and found several names of people "involved . . . with the Socialist Workers Party." Exhibit G.

An employee of the same company testified at a hearing over the firing of a meatpacker by Geo. A. Hormel & Co. in Fremont, Nebraska. The individual was fired, for among other reasons, speaking at a meeting in Des Moines, Iowa sponsored by the Militant, a socialist newsweekly that reflects the views of the SWP, on the labor battle against Hormel in Austin, Minnesota. Exhibit H. The employee admitted that he

had videotaped a rally in support of the union. At the same hearing, another private investigator admitted that he had taped the meeting sponsored by the Militant newspaper by perching in a trash dumpster and holding a tape recorder to an air vent. Exhibit H. See also Exhibits I and J.

Other private groups have also harassed individuals associated with the SWP. From 1979 until 1989 an individual brought suit against the SWP and six of its leaders as well as various government agencies. After 10 years of litigation, the court dismissed the case, finding that the individual used the litigation in furtherance of his "motivation to disrupt the SWP", and had engaged in abusive, harassing discovery which had as one of its "main purposes . . . to generate material for political attacks on the SWP" by other groups. Exhibit K at 8-9. Indeed, the same private group which played a role in supporting this harassing litigation published materials identifying various individuals as members of the SWP, accusing SWP members of participating in intelligence-gathering for the government and coal companies and urged that "their activities should be treated accordingly." Exhibit LL.

The continued antagonism toward the SWP and the principles for which it stands has been reflected in a series of threats and violence over the last few years. For example, in February 1990, the local office of the SWP (located in the same premises as a bookstore in New York City) received threatening telephone calls the night before a meeting on Cuba

was to be held in the premises. The callers referred to "you communist bastards" and threatened the individuals receiving the calls. Exhibit L.

In January, 1990, a series of threatening telephone calls were made to the storefront where the local SWP headquarters are located in Kansas City immediately after a meeting criticizing the U.S. invasion of Panama. Exhibit M. The calls included the threat ". . . we're going to get you, you pinko pigs" and ". . . you should be shot." Exhibit M. Shortly thereafter, a rock was thrown through the window. Exhibit M.^{16/}

In December 1989, an anonymous caller threatened to bomb the building in which the SWP national offices are located in New York City. The caller stated that "we're going to blow you up" and that "we're going to kill you commie motherfuckers." Exhibit O.

The telephone threats were proceeded by newspaper articles criticizing the preparation of a mural on the side of the building, known as the Pathfinder Mural, celebrating and depicting a number of revolutionary socialist figures and labor leaders, including Farrell Dobbs, James P. Cannon, Fred Halstead, Joseph P. Hansen, Evelyn Reed (all longtime leaders of the SWP), Karl Marx, Vladimir Lenin and other leaders of the Communist International, Fidel Castro, Ernesto Che Guevara and

^{16/} In March 1989, the plate glass windows of the SWP office in Omaha, Nebraska were broken by bricks thrown through the windows. Exhibit N. Similar incidents have occurred over the years. See, e.g., Exhibit MM (brick thrown through window of campaign office).

Malcolm X. Exhibit O. One newspaper denounced the mural as a "celebration of totalitarianism" and questioned "whether . . . it's appropriate to inflict such a mural on the sensibilities of ordinary New Yorkers" under the headline "Off the wall - and that's where it belongs". Exhibit P, New York Post, November 19, 1989. Another suggested that the words "R.I.P." and "never again" be added to the mural in the course of an editorial denouncing it. Exhibit Q, The Daily News, November 19, 1989.

Shortly after the telephone calls, the mural on the building was defaced with paint thrown in bottles bearing swastikas. Exhibit O.^{17/}

In Miami, Florida, over the past 10 years, there have been a series of fire bombings, threats and harassment of individuals who espouse or associate with individuals who espouse left-wing political views. See Exhibits R, S, T, U, V, X, Y, Z, AA, BB and CC. These incidents range from the fire bombing of the bookstore in which the SWP maintained its local office in 1983, Exhibits S and T, to the bombing of a local community college professor's home in 1988. Exhibit V. The Socialist Workers Party was specifically denounced in 1985 by a mayoral candidate in Miami for what she described as setting

^{17/} There have been a number of other incidents of violence and attempted intimidation over the years. See, e.g., Exhibit NN (shot fired into campaign headquarters), Exhibit W (crowd chanting "Kill Communists" and "Communists out of San Jose" outside SWP offices forcing evacuation of offices).

"up a stand to sell openly communist books" as "these communists, enemies of liberty and democracy, openly conspire against the stability of this nation. . . ." Exhibit X.^{18/}

Aside from these acts of violence, individuals continue to be harassed by government authorities. On numerous occasions individuals distributing campaign and/or other literature have been subjected to harassment including arrest. For example, an SWP candidate was forced by police officers to remove a campaign literature table in 1988 in Charlestown, West Virginia, with the police telling the candidate "I don't like what you have on your table and I order you to take it down." Exhibit DD. A week later, the candidate returned and was again ordered to remove the table under threat of arrest. Exhibit EE and Exhibit DD. A number of individuals have been arrested for distributing such literature and convicted for connected offenses,^{19/} in February 1989 a contribution form was return to the SWP in an official Minneapolis-St. Paul Police Department envelope with "Bullshit" stamped on the form (Exhibits HH and II), and in 1987 the University of Houston revoked the YSA's

^{18/} The incidents set forth in Exhibits S-V, and X-CC were submitted to the court in McArthur v. Smith, 716 F.Supp. 592 (S.D. Fla. 1989).

^{19/} Each of the convictions was subsequently reversed on appeal on First Amendment grounds. For example, in 1987, an individual selling The Militant was arrested in Masontown, Pennsylvania, convicted and fined \$350. His conviction was reversed on appeal because his "primary purpose was to discuss political ideas and topics contained in The Militant." Exhibit FF at 4-5. In 1986, an individual was prosecuted for selling a book when she was handing out political fliers and selling books on the streets of Newark. Exhibit GG. Her conviction was overturned on appeal on First Amendment grounds. Exhibit GG.

campus organization status after a literature table was opened on the campus. Exhibit JJ. In Philadelphia, Pennsylvania in 1987, armed security guards ordered a campaign literature table removed from a public sidewalk, and two weeks later a literature table was overturned while local police officers watched. Exhibit KK.

Conclusion

Based on the foregoing, there is a reasonable probability that the compelled disclosure of the Socialist Workers Party's contributors and recipients will subject them to threats, harassment or reprisals. Brown, supra, 459 U.S. at 100. The showing reflects a deeply held hostility by the government and certain private groups against the SWP spanning decades and which for long periods of time was implemented by an intrusive investigation, harassment of members, burglaries, wiretaps, disruption and other equally oppressive activities. The hostility on the part of the federal government has continued with various agencies expressing their need to know of individuals' associations with a group espousing a "hostile ideology". The hostility has erupted in numerous acts of violence, and threats of violence, including bombings and smashing of windows of SWP offices as well as other harassment. Individuals in the course of campaigning or distributing political literature have been harassed, threatened, and subjected to arrest.

The FEC should recognize, as it has in the past, that under the First Amendment the Socialist Workers Party campaign committees can not be compelled to disclose information concerning their contributors or recipients.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Edward Copeland".

Edward Copeland
Counsel to the Socialist
Workers Party National
Campaign Committee

EC:anb

**Exhibits To July 2, 1990 Letter
To Federal Election Commission**

- A Report of Special Master Charles Breitel, dated February 4, 1980 in Socialist Workers Party v. Attorney General, 73 Civ. 3160 (TPG) (S.D.N.Y.).
- B Excerpts from Defendants' Memorandum on Proposed Order of Injunctive Relief, dated March 6, 1987 filed in Socialist Workers Party v. Attorney General, 73 Civ. 3160 (TPG) (S.D.N.Y.).
- C Declaration of Gary B. McDaniel dated March 4, 1987 filed in Socialist Workers Party v. Attorney General, No. 73 Civ. 3160 (TPG) (S.D.N.Y.).
- D Declaration of Roger Robinson, dated March 1987 filed in Socialist Workers Party v. Attorney General, No. 73 Civ. 3160 (TPG) (S.D.N.Y.).
- E Declaration of Edwin W. Dornell, dated March 3, 1987, filed in Socialist Workers Party v. Attorney General, No. 73 Civ. 3160 (TPG) (S.D.N.Y.).
- F Declaration of Thomas J. O'Brien, dated March 5, 1987, filed in Socialist Workers Party v. Attorney General, 73 Civ. 3160 (TPG).
- G Midlands Business Journal, April 21-27, 1989.
- H "Hormel Company Spying Unmasked" The Militant, June 16, 1989.
- I "Hearings reveal Hormel spied on Nebraska Union activist," The Militant, March 31, 1989.
- J Excerpts from Transcript of Proceedings in In re Geo. A. Hormel Company, Robert Langemeier and United Food and Commercial Workers Int'l Union, Local 22, Case No. 17-CA-12789, 12828, 13426, 13428-2 (N.L.R.B. 1989).
- K Findings of Fact and Conclusions of Law, filed August 15, 1989 in Gelfand v. Smith, et al., No. CV 79-2710 MRP.
- L Declaration of Anna Schell, dated July 1, 1989.
- M "KC bookstore angry over recent threats," The Kansas City Times, January 4, 1990 and "Kansas City activists protest attack on Pathfinder Bookstore," The Militant, January 12, 1990.

- N "Omaha campaign office vandalized", The Militant, March 24, 1989.
- O Declaration of Meryl Lynn Farber.
- P "Off the wall -- and that's where it belongs", New York Post, November 19, 1989.
- Q "A timely monument, with missing pieces," Daily News, November 19, 1989.
- R Stipulation filed in McArthur v. Smith, Case No. 85-3070-Civ. - King (S.D. Fla.).
- S "Check terrorism, or else," Miami News, June 15, 1983.
- T "Leftist bookstore firebombed," The Miami Herald, June 14, 1983, p. 5D.
- U "Miami Nice?", The New Republic, October 3, 1988, pp. 16-18.
- V "Get the bombers!", The Miami Herald, May 28, 1988, p. 26A.
- W "Right-wing violence in San Jose denounced", The Militant, May 10, 1985.
- X La Nacion, June 28, 1985, p. 5.
- Y "Bombing fails to halt U.S.-Cuba forum," The Miami Herald, May 27, 1988, p. 1A.
- Z "Freedom of Speech Is a Debatable Issue for Many in Miami," The Wall Street Journal, June 2, 1986, p. 1.
- AA "Eggs and rocks weaken democracy," The Miami News, March 25, 1986, p. 16A.
- BB "A Ticking Bomb," The Miami Herald, June 17, 1983, p. 24A.
- CC Collection of Articles.
- DD Affidavit of Andrew Pulley.
- EE "W. Va. cops harass candidate," The Militant, May 13, 1988.
- FF Satinoff v. Commonwealth of Pennsylvania, No. 130 C.D. 1989 (Com. Ct. Pa. 1989).
- GG "SWP wins right to distribute political literature in Newark," The Militant, November 4, 1988.

- HH "Socialist Workers Party claims Minneapolis police harassment," St. Louis Pioneer Press & Dispatch, February 16, 1989.
- II Letter to Minneapolis Chief John Laux, enclosing copy of material received in police department envelope.
- JJ "Houston young socialists defend rights," The Militant, December 18, 1987, p. 7.
- KK "YSA campaigns in Philadelphia, Berkeley," The Militant, October 2, 1987.
- LL "The Militant and the Miners," Bulletin, September 19, 1989.
- MM "SWP mayoral candidate demands cops investigate campaign office attack", The Militant, May 31, 1985.
- NN "Candidate demands investigation of attack on Atlanta SWP headquarters", The Militant, May 24, 1985.

Exhibit A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY, et al.,

Plaintiffs,

- against -

73 Civ. 3160 (TPG)

THE ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Defendants.

FINAL REPORT OF SPECIAL MASTER
CHARLES D. BREITEL

February 4, 1980

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY, et al.,

Plaintiffs,

- against -

73 Civ. 3160 (TPG)

THE ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Defendants.

FINAL REPORT OF SPECIAL MASTER

The undersigned was appointed Special Master in this action by order dated April 30, 1979. The following is the final report to Your Honor.

INTRODUCTORY COMMENTS

As the Court is aware, this reference grew out of the Government's refusal to turn over 18 informant files as directed by order of May 31, 1977. In vacating the July 6, 1978 order of contempt that followed, the Court of Appeals suggested that the district court explore issue-related

sanctions available under Rule 37, F.R. Civ. P. 596 F.2d at 67.*

Early in the reference, the Government argued that the Court of Appeals' mandate limited the District Court, and consequently the Special Master, to making the representative findings suggested by the Court of Appeals. The Government argued that plaintiffs could then apply for additional sanctions, if warranted, based on those findings. As the Government put it, "it is the Government's position that pursuant to the mandate in SWP III representative findings regarding the 18 informant files and summaries must be made before additional issue-related sanctions can even be considered." Government's Memorandum Of Law With Respect To Sanctions, filed April 16, 1979 at 4.

The Government's argument imposes too narrow a reading on the Court of Appeals' opinion and the District Court's power under Rule 37, F.R. Civ. P. The Court of Appeals' opinion makes it clear that:

"... the district court should of course impose those sanctions which, so far as possible, put plaintiffs in the position that they would have been in if the Government had disclosed the information [in the files]."
Id.

* The Court of Appeals noted that "the most severe sanction of ... default be imposed only if the failure to comply is due to willfulness, bad faith, or fault, and not to an inability to comply [citations omitted]." 596 F.2d at 66. The undersigned has not been requested to, and is not in a position to, make a recommendation in that regard.

The order of reference implements that mandate by directing the Special Master:

"... to recommend to the Court both representative findings from the 18 informants' files to provide plaintiffs with the available support for their position, without disclosing or creating a serious risk of disclosing the identity of any of the informants, and such other sanctions, if any, as he may deem necessary and appropriate to be imposed against defendant Attorney General for his failure to comply with this Court's May 31, 1977 Order."

I have reviewed the files with a view to putting plaintiffs, as nearly as possible, in the position they would have been in had they reviewed the files themselves. As a natural consequence of that approach, the information disclosed and the sanctions recommended in this report go beyond the suggested representative findings.

The Summaries

The Court of Appeals suggested that representative findings gleaned from the FBI-prepared summaries of the files "would supply the plaintiffs with much of the information that they need to establish their claims or to propose other sensible sanctions, if any are needed, without compromising the identity of the informants." The Court noted that in making those representative findings, recourse could be had at least in the first instance solely to the summaries. In the language of the Court of Appeals, "The findings can usually

be based upon the summaries alone. If the summary's description of an important matter is too vague or incomplete, however, the district court or master may refer to the original informant file." 596 F.2d at 67.

At a conference held with all counsel on May 8, 1979, the Government requested that I examine the summaries as suggested by the Court of Appeals. Plaintiffs' counsel, however, made it plain that they would not be satisfied with representative findings based solely on the Government-prepared summaries. Their position may have been the outgrowth of the Government's having earlier conceded that interrogatory answers supplied in June 1976 with respect to the contents of the file of an informant named Redfearn were inaccurate and possibly deliberately so. Petition And Brief Of The Attorney General Of The United States And Other Defendants-Appellants, filed August 15, 1978 in the United States Court of Appeals for the Second Circuit, at 20-21.

Plaintiffs' counsel urged and I agreed to consider under advisement that some or all of the actual files be reviewed. My ultimate view that all the files be reviewed was greatly influenced by my understanding that it was consistent with Your Honor's own view of how I should proceed, which is reflected in subparagraphs 2(a) and (b) of the order of reference.

As everyone had realized, reviewing the hundreds of volumes of files required the efforts of a number of file

reviewers. Each file reviewer was briefed by me personally on the nature and background of the reference and the issues in the case. There was also available a memorandum of instructions which contained the three-page list of suspected "Cointelpro" activities by the FBI that had been supplied at my request by plaintiffs' counsel. They were requested to and did take notes on the files they read. Simply as a control measure, the file reviewers were denied access to the summaries.

Review of the files and the summaries revealed that, with some exceptions, the summaries seemed to contain at least general references to pertinent information in the files. We did find many instances in which the summaries either did not mention an event or the description of the event in the summary did not particularize enough to suggest inferences or possible inferences that came easily to mind when the files themselves were examined. Those additional items are, of course, reflected in this report. In no circumstance, however, was there any indication of duplicity on the Government's part.

Security Clearances

The Government and I agreed that persons on my staff who were to have direct or indirect access to the files or summaries should undergo a security clearance check by the FBI. Plaintiffs' counsel objected to this procedure on the

ground that I should have the unfettered right to chose those I wished.

While I had earlier agreed, on the Government's representation that the security checks could be accomplished within ten days, to wait for the clearances before allowing persons to read the files, it became evident after the passage of that period that the FBI checks would take much longer.* I therefore allowed the Government only a two-week further period to conduct whatever investigation was felt to be appropriate and I requested that I be advised during that period of any possible problems warranting further investigation. I received no such indications from the Government and I thereafter assigned various files to the file reviewers, although by that time vacations, not my own which I did not take, further delayed the reading of the files.

As matters eventuated, the Government raised no security problems concerning anyone whose application was submitted.

The Four Files

Early in the reference a question arose as to whether four of the 18 files, arbitrary code designations 6, 220,

* In fact, persons whose applications were submitted on July 2 and 9, 1979 did not receive clearance until August 29 and September 13, 1979.

1123 and 1321, should be produced to plaintiffs' counsel under some form of protective order. The Government was willing to make the files available but argued that plaintiffs should not be allowed to disseminate generally information from those files and particularly not the identity of the informants. The Government therefore proposed making the files available for general discovery purposes under a form of protective order limiting their use "to proper purposes in this litigation." Affidavit of Griffin B. Bell, dated June 13, 1978.

Plaintiffs' counsel had earlier expressed to the Court (by letter dated May 11, 1979) a desire to receive the files "subject to whatever protective order Your Honor deems appropriate." At a meeting held with counsel for both sides on June 12, 1979, I raised the subject of the four files because, as I then explained, I thought it would be useful for plaintiffs to accept the files, for the time being, under the conditions suggested by the Government. This would enable them to inform themselves further* as to the nature of the materials contained in the informant files.

I therefore suggested that they accept the files under the Government's suggested form of protective order, reserving their right to apply later for less restricted use

* I was, of course, aware that plaintiffs had already received as many as eight informant files previously made available by the Government.

of those files. Plaintiffs' lead counsel indicated he would consider the suggestion and advise me of his decision.

By letter dated June 27, 1979, Mr. Boudin advised that "plaintiffs cannot acquiesce as a matter of principle in the conditions imposed by the Government. We will, of course, accept the files under whatever protective order you or Judge Griesa should deem appropriate"

On July 6, 1979, I signed a form of protective order submitted by the Government and modified by me as described below. The protective order provides in pertinent part that the four files would be produced to plaintiffs' counsel "solely for use in this litigation" under the following conditions:

(1) All copies of material from the files are to be maintained at the offices of Rabinowitz, Boudin & Standard, 30 East 42nd Street, New York, New York;

(2) Plaintiffs' counsel and Larry Seigle may take material or information from the files available only to SWP and YSA members and only to the extent necessary for purposes of the litigation. Prior to disclosing any such material to any such SWP or YSA member, plaintiffs' counsel must show that person a copy of the protective order which prohibits any such person from copying material or disclosing information in the files; and

(3) Upon completion of this litigation copies of the material from the files shall be returned to the United States Attorney.

I modified the proposed order to provide that at the coming in of this final report plaintiffs may apply to the District Court to be relieved of any or all of the order's conditions and restrictions.

The order as signed by me was approved by the Court and filed on July 16, 1979.

I have been informed that the four files were placed in the possession of plaintiffs' counsel on July 31, 1979. On September 21, 1979, I returned to the Government the copies of the four files it had earlier provided to me.

Phase One

By the middle of December 1979, the review of the files and the preliminary drafting of the report had been completed. On December 18, 1979, I met with counsel for both sides to advise them that I expected to submit this report to the Court in the near future. I suggested that it might be appropriate, as well as consistent with the Court of Appeals' mandate to protect the informants' anonymity, that the draft report be submitted to the Government first and ex parte for the limited purpose of obtaining its opinion as to whether the report would, in light of information plaintiffs already

possessed, create a substantial risk of disclosure to any of the informants (Phase One). I explained that I would then submit the report to counsel for both sides for their comments and suggestions prior to submitting it to the Court (Phase Two).*

The Government embraced the suggestion. Plaintiffs' counsel agreed with Phase Two but objected to Phase One on the general ground that they were opposed to any ex parte submission to the Government.

Under the unusual circumstances present here, I decided to overrule plaintiffs' objection to Phase One and to allow the Government a short period to review the draft report for the limited purpose stated above. A copy of the report given to the Government at that meeting is submitted with the Court's copy of this report as Exhibit 1.

By letter dated December 21, 1979, counsel for the Government stated that, "It is our strong view that the Report, if made available to plaintiffs in its present form, would provide all the additional information plaintiffs would need to identify most of the fourteen informants" The Government suggested that its concerns could be alleviated in large measure by:

* I informed all counsel present that I was still revising the report myself and would continue to do so even as counsel were reviewing it.

- (1) deleting citations to arbitrary code numbers and pages of the files;
- (2) restricting or eliminating references to specific locations and cities, to the gender of informants, and to individuals easily identifiable with particular SWP or YSA branches; and
- (3) revising certain findings to eliminate specific references to easily identifiable incidents that place informants at particular locations at particular times with a small group of people.

I met with counsel for the Government ex parte on December 27 and 28 to discuss the Government's objections. The Government submitted various analyses in tabular form of information already in plaintiffs' possession concerning the identity of the 14 informants gleaned from interrogatory answers and pre-trial conferences. The Government also submitted a suggested list of redactions to the draft report.

Based on the Government's submissions, I concluded that the report did indeed necessarily enlarge an already substantial risk to the anonymity of several of the informants. Some of the Government's objections were easily met by changes and deletions that, in my opinion, still leave plaintiffs with as much useful information as they would have had from the draft submitted to the Government. For example, I decided to delete all citations from the copy of the report to be given to plaintiffs. Those citations are of little use to plaintiffs because they do not have the files. The citations

had been inserted only for the Court's convenience. Similarly, specific date, city, and gender references in Part II(b) of the report add nothing of any moment to the findings there.*

The Government's principal objection was to the naming of cities, events, and individuals easily identifiable with particular cities in Part III of the report. Because of the nature of the information contained in Part III, see pages 48-69, infra, the Government's suggested deletions could not be made without compromising the potential value to plaintiffs of the information in that Part. Accordingly, I informed the Government that any deletions made to that Part would have to be replaced with other sanctions in the form of conclusive presumptions against the Government. I explained that since, for the items deleted, plaintiffs would have no satisfactory opportunity to make their own investigation, to suggest additional discovery, or to verify independently other information the Government might supply, the sanctions to be imposed in their place would make assumptions that in many instances would exceed what plaintiffs or the fact finder would have been entitled to infer from the deleted information.

* The only objection the Government raised to Part II(a) of the report was to the mention of certain specific cities in the first finding there. I have deleted the names of some of those cities because I believe their inclusion does not add measurably to plaintiffs' case.

After consideration, the Government decided to accept the concept of sanctions in the form of conclusive presumptions in place of the disclosure of dates, persons, and places it believes would create a substantial risk to the anonymity of certain informants. I have developed such sanctions and have included them in Part IV of this report.

Phase Two

On January 8, 1980, a copy of the report as revised during Phase One (one with file references and one without) was delivered to all counsel with the request that any comments be submitted by January 22, 1980. Both Mr. Boudin and Mr. Williams sent letters, each dated January 22, 1980, and each containing a handful of comments and suggestions.

Counsel met with me on January 28, 1980 to discuss their letters, copies of which are submitted with the Court's copy of this report as Exhibit 2.

Of the three suggestions the Government offered, I adopted only the first; the second was rejected because it would have blunted the intended sanction, and the third was rejected because I did not have sufficient information to make the suggested statement.

Almost all plaintiffs' suggestions were adopted, either precisely as proffered or in large measure. Changes were made to the report, as well as to the General Final

Comment at the end of the report, to reflect concerns urged by plaintiffs. No action was taken concerning the merits of certain of plaintiffs' arguments (those directed to what was then page 31, paragraphs f and g) because they raised questions of admissibility more properly resolved by the Court.

SANCTIONS

The review of the files had disclosed information falling into several categories and the balance of this report is divided accordingly. I note that no attempt was made to include all informant activity involving groups clearly unrelated to the plaintiff organizations such as the Communist Party, SDS, and others.*

I. It appeared from the submissions to the Court of Appeals and from conferences with counsel, that the Government was prepared to concede many relevant facts. In the interests of narrowing the issues, removing any controversy over some of the representative findings I would be making, and limiting the cost of this reference, I requested that Government counsel submit proposed responses to questions 7 and 9 in the Court of Appeals' appendix to its opinion.

I had at first asked that this submission be in the form of a bilateral stipulation. Plaintiffs' counsel objected, contending that they were not in a position to stipulate to anything. I therefore requested that the Government submit its proposed concessions ex parte subject to my being satisfied

* In addition, although the Government made available and we have read informant files preceding the 1960 discovery cut-off, I have limited the inclusion of information in this report to the period subsequent to 1955. The files in some instances precede 1950. I chose 1955 as the cut-off because some of the information between 1955 and 1960 seemed to be the type that might be of general interest to the plaintiffs.

with their coverage based on my examination of the files. Plaintiffs' counsel then objected "to the transmittal of anything, including Proposed Findings ... ex parte" (August 7, 1979 letter).

The Government's admissions are set out in Part I below. In many instances, the concessions go beyond what I could have found based on the 14 files alone. To the extent those concessions did not reflect material found in the files, those additional items are included in other parts of the report.

I recommend that the facts contained in the Part entitled, "Government's Admissions" be taken as established against the defendants only and without limitation on plaintiffs' proof for purposes of this case.*

II. The next Part is entitled, "Representative Findings." It comprises what I have called general and specific representative findings.

Specific representative findings were made where the risk of disclosure of particular facts found in the files created too high a risk to the informant's anonymity. General representative findings were made mostly where facts were repeated too often to be manageable in individual form and were believed to illustrate a pattern of activity.

* It should be noted at this juncture that it is not my intention to convey any suggestion, let alone a recommendation, concerning the ultimate relevance, as the issues in this case may eventuate, of any of the material in any part of this report.

An example of a type of specific representative finding is an informant having attained some position of prominence in an SWP or YSA branch where giving the specifics would be to disclose or to create a substantial risk of disclosure of the informant's identity. In such cases the facts are put in the form of a finding without names or places but with as much detail as practicable and should be considered non-rebuttable by the Government for purposes of the case.

An example of a general representative finding is the FBI's having received thousands of reports containing only what appears to be peaceful and lawful SWP activity. I recommend that this type of representative finding with respect to the content of the files be taken as proved for purposes of the case, including trial, but may be rebutted generally by information not contained in the files withheld from plaintiffs. I believe that allowing the Government to make selective use of information in files denied plaintiffs would be unfair.

III. Where it was possible to give plaintiffs information as reported in the files without revealing or creating a substantial risk of revealing the informant's identity, I have done so in this third Part. For example, plaintiffs should be given data of specific or suspected Cointelpro activities and their effect, (if) disclosure of the facts does not tend unduly to reveal the informant's identity. (Compare the disposition of items in Part IV where sanctions are suggested

in instances where the Government plausibly argued to my satisfaction that the risk of disclosure is too great). Throughout I have attempted to disclose as much detail as feasible even to the extent of quoting portions of the informant reports.

These facts, if offered by plaintiffs, should be considered admissible, if otherwise relevant to the eventual issues, but subject to specific rebuttal since with respect to these items plaintiffs have been only slightly handicapped by their inability to see the files.

The items in this category may be useful to plaintiffs in light of information they already possess, such as the redacted Cointelpro files, or they may suggest to plaintiffs additional discovery applications to be made to the Court.

IV. The sanctions in this Part of the report are in place of items deleted from Part III of the report at the Government's instance as described supra at 12-13. Each sanction is conditioned on the Government's continued refusal to disclose all the information contained in the corresponding item or items deleted from Part III.

The omission of the specific information contained in the deleted Part III items will necessarily preclude plaintiffs from proving an exact measure of damage attributable to the events described in those deleted items. However, that

handicap is greatly outweighed by the benefit received from the suggested conclusive presumptions. Moreover, the handicap is reduced by the Court's ability, in a proper case, to assign a measure of damage, if needed and if better evidence of damage is not available.

V. The fifth Part notes areas of interest to plaintiffs concerning which no useful information was found in the files.

Part I

Government's Admissions

The concessions noted in this section were derived almost verbatim from various submissions by the Government. (See pages 15-16, supra)

A. Plan of investigation

From approximately 1961 to 1971, the FBI maintained a counterintelligence program (Cointelpro) against the SWP and YSA entitled the "SWP Disruption Program", which consisted in part of the dissemination of information by the FBI designed to impair the ability of the SWP and YSA to function.

The FBI also maintained counterintelligence programs against the Communist Party, USA and the New Left. These two programs involved a number of activities against the SWP and YSA.

The tactics utilized in these programs included disclosing to the press the criminal records of SWP candidates, and sending anonymous letters to SWP members, supporters, spouses, and employers.

Informant involvement in the counterintelligence programs consisted in part of providing the FBI with information it utilized in anonymous letters and of reporting to the FBI on the effects of counterintelligence programs.

The FBI's investigation of the SWP and YSA was conducted pursuant to the instructions contained in Section 87 of the FBI Manual of Instructions ("the Manual").* Pursuant to the instructions in Section 87 of the Manual, FBI Special Agents investigating the plaintiff organizations were responsible for obtaining and recording information concerning:

- a. The location of the organizations' (1) national headquarters and (2) chapters and local branches;
- b. The stated aims and purposes of the organizations;
- c. The identity of the organizations' leaders and members;
- d. The size and composition of the organizations' membership;
- e. The contents of the organizations' publications;
- f. The sources of the organizations' funds and the nature of their expenditures;
- g. The organizations' connections with and infiltration of other groups; and

* I am advised that Section 87 of the Manual, with the revisions made to it during the period covered by plaintiffs' discovery, has been produced to plaintiffs under a protective order.

h. The organizations' activities.

From at least 1960 until 1976, Section 87 of the Manual instructed FBI field offices to develop informants on all levels of organizations, such as SWP and YSA, which were the subjects of domestic security investigations. These informants were utilized as a source for obtaining information concerning such organizations. Other methods of obtaining information included interviewing past and present organization members and persons associated with them, and monitoring organization bank records, publications, and public meetings.

Between 1960 and 1976, the FBI in its investigation of the plaintiff organizations also obtained information by the following means:

a. Direct electronic surveillance of the SWP between at least 1960 and 1963;

b. Surreptitious entries of SWP and YSA facilities by FBI Special Agents between at least 1960 and 1966; and

c. A mail cover of the SWP in 1973.

The FBI informants who were members of the SWP and YSA were instructed to and generally did provide detailed reports to the Special Agent with whom they were in contact. These reports (1) described the subject matter of every party meeting or activity the informant attended and (2) identified, gave physical descriptions and background data, such as

employment, residence and marital status, concerning the people they came in contact with in the SWP or YSA. In addition, each member informant was instructed to and generally did provide the FBI with copies of SWP and YSA documents, including mailing and membership lists, to which they had access by reason of their relationships with other members or their positions within the organizations.

B. Scope, extent, and comprehensiveness of infiltration of the SWP and YSA by FBI informants between 1960 and May 1976

Since 1960 there were approximately 300 FBI informants who were members of one or both of the plaintiff organizations and 1,000 non-member informants.* During this period, the numbers of FBI informants in the plaintiff organizations were as follows:

<u>SWP</u>		<u>YSA</u>	
1960	52	1960	9
1961	54	1961	11
1962	53	1962	10
1963	51	1963	7
1964	52	1964	9
1965	49	1965	11
1966	47	1966	12
1967	39	1967	14
1968	34	1968	23
1969	32	1969	38

* The non-member informant count is limited to persons who provided information to the FBI on at least two occasions.

<u>SWP</u>		<u>YSA</u>	
1970	30	1970	58
1971	32	1971	77
1972	33	1972	83
1973	28	1973	77
1974	24	1974	75
1975	23	1975	62
1976	19	1976	41

Because approximately 20 informants were members of both organizations at the same time, the foregoing list to that extent overstates the total number of member informants.

There are a total of 59 FBI field offices. During the years at issue, the number and percentage of the FBI field offices to which SWP and YSA member informants were reporting were as follows:

<u>Year</u>	<u>SWP</u>	<u>YSA</u>
1960	16 (27.1%)	8 (13.6%)
1961	17 (28.8%)	7 (11.9%)
1962	17 (28.8%)	7 (11.9%)
1963	17 (28.8%)	6 (10.2%)
1964	17 (28.8%)	5 (8.5%)
1965	16 (27.1%)	7 (11.9%)
1966	15 (25.4%)	7 (11.9%)
1967	14 (23.7%)	8 (13.6%)
1968	13 (22.0%)	13 (22.0%)
1969	13 (22.0%)	21 (35.6%)
1970	14 (23.7%)	28 (47.5%)
1971	14 (23.7%)	29 (49.2%)
1972	15 (25.4%)	28 (47.5%)
1973	15 (25.4%)	30 (50.8%)
1974	13 (22.0%)	29 (49.2%)
1975	14 (23.7%)	28 (47.5%)
1976	13 (22.0%)	23 (39.0%)

In fifteen or more of the almost 17 years covered by plaintiffs' discovery, one or more SWP or YSA member informants

were reporting to each of the following FBI field offices*:

Boston	St. Louis
Chicago	San Diego
Cleveland	San Francisco
Los Angeles	Detroit
Minneapolis	New York

During at least seven of the years at issue, one or more SWP or YSA member informants were reporting to each of the following FBI field offices:

Denver	Baltimore
Newark	Cincinnati
Houston	Indianapolis
Milwaukee	San Antonio
Philadelphia	Washington
Seattle	New Haven
Atlanta	

Approximately 55 FBI informants held offices or committee positions in the SWP and YSA between 1960 and 1976. With one exception, none of the informants held any of the following national offices or national committee positions in the SWP or YSA:

Position

SWP	- National Committee
SWP	- Political Committee
YSA	- National Committee
YSA	- National Executive Committee

* The FBI field office to which one informant reported is not listed because to do so would risk revelation of the informant's identity.

Position

SWP - National Secretary
SWP - National Organization Secretary

YSA - National Chairperson
YSA - National Secretary
YSA - National Organization Secretary

One informant held a national position in the YSA. This was a national committee position and was held by an informant whose service to the FBI began in mid-1960 and ended in 1962. The highest SWP office held by an FBI informant, No. 220, was as an alternate member to the SWP National Committee.*

Approximately 21 informants served on branch or local executive committees of SWP and two served as branch or local organizers. In addition, John Hollowell, whose file was produced to plaintiffs in 1976, served as an acting organizer of the San Diego Branch of the SWP.

Approximately 30 informants served on local or city executive committees of the YSA and six served as local or city organizers of the YSA.

In each of the years 1960-1976, the numbers of informants who served in either SWP or YSA committee positions were as follows:

* The informant No. 220 files were given to plaintiffs' counsel under the protective order. See pages 6-9, supra.

1960	9	1969	3
1961	7	1970	3
1962	10	1971	5
1963	9	1972	11
1964	6	1973	7
1965	4	1974	3
1966	4	1975	4
1967	4	1976	0
1968	3		

In each of the years 1960-1976, the numbers of informants who served as SWP or YSA organizers were as follows:

	<u>SWP</u>	<u>YSA</u>
1960	1	0
1961	1	0
1962	1	0
1963	1	0
1964	1	0
1965	1	0
1966	1	0
1967	2	0
1968	2	0
1969	1	1
1970	1	2
1971	1	2
1972	1	4
1973	0	1
1974	0	1
1975	0	1
1976	0	0

During the period 1960-1976, a total of three informants ran for elective office as SWP candidates; one ran for congressional office and two ran for state or local office.

C. Payments to informants*

	<u>Code Number</u>	<u>Total Payments</u>	<u>Services</u>	<u>Expenses</u>
1.	6	\$ 43,675.52	\$ 32,184.72	\$ 11,490.80
2.	53	42,256.85	36,786.70	5,470.15
3.	73	5,679.25	4,766.50	912.75
4.	148	18,062.42	13,125.50	4,936.92
5.	162	None	-	-
6.	176	15,858.90	13,286.61	2,572.29
7.	220	46,930.35	29,130.00	17,800.35
8.	306	35,973.28	24,290.85	11,682.43
9.	311	14,427.39	10,902.34	3,525.05
10.	317	23,454.01	16,706.00	6,748.01
11.	616	22,185.19	16,541.87	5,643.32
12.	675	7,814.67	5,498.32	2,316.35
13.	1007	18,388.15	15,607.00	3,281.15
14.	1121	45.00	45.00	-
15.	1123	2,941.00	2,325.00	616.00
16.	1211	None	-	-
17.	1321	33,135.43	25,128.00	8,007.43
18.	1350	27,320.97	17,915.00	9,405.97
	Totals	\$358,648.38	\$264,239.41	\$ 94,408.97

Informant code No. 6 received a total of \$43,675.52. Payments for services ranged generally from \$160.00 to \$180.00 a month; while payments for expenses ranged generally from \$40.00 to \$70.00 a month.**

* This list summarizes payments made to the 18 informants from January, 1960 until May, 1976.

** Unless otherwise indicated, payments to individuals for services and expenses are indicated in a general range. At times, payments outside the indicated range were made; but such payments are not representative. For example, during some periods of little or no activity, no payments were made. On other occasions, payments outside the general range were made in connection with the payment of "assessed pledges" or attendance at SWP Conventions.

Informant code No. 53 received a total of \$42,256.85. Payments for services ranged generally from \$80.00 to \$325.00 a month; while payments for expenses ranged generally from \$15.00 to \$65.00 a month.

Informant code No. 73 received a total of \$5,679.25. Payments for services ranged from \$25.00 to \$100.00 a month; while payments for expenses ranged from \$3.25 to \$25.00 a month.

Informant code No. 148 received a total of \$18,062.42. Payments for services ranged generally from \$200.00 to \$300.00 a month. Payments for expenses ranged generally from \$40.00 to \$75.00 a month.

Informant code No. 176 received a total of \$15,858.90. Payments for services ranged generally from \$100.00 to \$125.00 a month. Payments for expenses ranged generally from \$15.00 to \$40.00 a month.

Informant code No. 220 received a total of \$46,930.35. Payments for services ranged generally from \$175.00 to \$225.00 a month. Payments for expenses ranged generally from \$75.00 to \$125.00 a month.

Informant code No. 306 received a total of \$35,973.28. Payments for services ranged generally from \$100.00 to \$375.00 a month. Payments for expenses ranged generally from \$30.00 to \$150.00 a month.

Informant code No. 311 received a total of \$14,427.39.

Payments for services ranged generally from \$50.00 to \$225.00 a month. Payments for expenses ranged generally from \$40.00 to \$70.00 a month.

Informant code No. 317 received a total of \$23,454.01. Payments for services ranged from \$120.00 to \$130.00 a month; while payments for expenses ranged generally from \$40.00 to \$50.00 a month.

Informant code No. 616 received a total of \$22,185.19. Payments for services ranged generally from \$100.00 to \$375.00 a month; while payments for expenses ranged generally from \$40.00 to \$100.00 a month.*

Informant code No. 675 received a total of \$7,814.67. Payments for services ranged generally from \$15.00 to \$60.00 a month. Payments for expenses ranged generally from \$5.00 to \$25.00 a month.*

Informant code No. 1007 received a total of \$18,898.15. Payments for services ranged generally from \$50.00 to \$130.00 a month. Payments for expenses ranged generally from \$15.00 to \$40.00 a month.

* The Government reports that the aggregate figures for informants Nos. 616 and 675, obtained from FBI headquarters' records, differ somewhat from the aggregate figures reflected in the summaries of the informant files. Headquarters' files for informant No. 616 reflect \$517.98 less in payments than do the summaries; headquarters' files for informant No. 675 reflect \$5.30 less in payments than do the summaries.

Informant code No. 1121 received several payments totalling \$45.00, all of which represented payments for services.

Informant code No. 1123 received a total of \$2,941.00. Payments for services ranged from \$50.00 to \$190.00 a month; while payments for expenses ranged from \$12.00 to \$64.00 a month.

Informant code No. 1321 received a total of \$33,135.43. Payments for services ranged generally from \$125.00 to \$160.00 a month. Payments for expenses ranged generally from \$30.00 to \$80.00 a month.

Informant code No. 1350 received a total of \$27,320.97. Payments for services ranged generally from \$75.00 to \$150.00 a month. Payments for expenses ranged generally from \$30.00 a month to \$80.00 a month.

The unweighted average of payments made to the 18 informants for the years involved was \$19,924.91 ($\$358,648.38 \div 18$).

Part II

Representative Findings*

A. General

1. The 14 files include reports by informants in at least 12 different cities, including Boston, Chicago, New York, Berkeley, San Francisco, San Diego, and Minneapolis-St. Paul. Informants who were members of either or both plaintiff organizations generally reported on each SWP or YSA meeting they attended. The 14 files contain literally thousands of such reports since meetings were held most often on a weekly basis.

2. Two of the 11 member informants were recruited by the FBI, seven made the initial contact and volunteered to become informants, some generally, others specifically in the SWP or YSA, and for two member informants there is insufficient information in the files to determine whether they volunteered or were recruited. Of the three non-member informants, one volunteered, one was recruited, and for one there is insufficient information to determine whether that person volunteered

* Informant and page citations are included in copies of the report filed with the Court and given to the Government. All citations have been deleted from the copy furnished to plaintiffs. The citations are included only for convenience and should not be considered in any way as a limitation. No attempt was made to include a citation to every page that might conceivably support any particular representative finding.

or was recruited. FBI headquarters frequently instructed the FBI local office to ensure that the prospective informant was not a "plant."

3. The 14 informant files contain thousands of reports concerning the activities of SWP and YSA. All the reports describe facts apparently consistent with peaceful, lawful political activity insofar as the SWP and YSA are concerned,* with the following arguable qualifications:

(a) SWP and YSA members, on numerous occasions, were requested or instructed to participate in public assemblages described as rallies, demonstrations, pickets, or marches in some of which some kind of violence or disorder occurred. In some instances persons were arrested (in some such instances they were members of one or both of the two organizations) without any facts, other than the fact of arrests, showing or otherwise suggesting that such members had or had not committed any unlawful acts.

* In fact, there are recurring instances of advice and instructions to the members to abstain from acts of violence and physical disorder, and from using marijuana because it would embarrass the organization. There are also instances of members openly disavowing the appropriateness of owning or possessing firearms and there are repeated references by SWP and YSA to the nonviolent nature of plaintiff organizations and their consequent unwillingness to associate with organizations known or believed to advocate violence.

(b) In at least one instance, arising from apparently defensive preparation for anticipated possible violence, members were instructed not to bring weapons (undescribed) from home, but that the organization would provide whatever weapons (undescribed) would be necessary.

(c) There are a number of occasions in which informants asserted that the SWP was divided into a majority and minority faction, the latter of which was committed to the Internaticralist Tendency, that is, the Fourth International majority, calling for the immediate use of violence and terrorism to facilitate the onset of revolution. There was talk from time to time of the SWP majority rejoining, planning to rejoin, and having rejoined the Fourth International majority.

(d) Materials in the files invariably suggest that at some unspecified future time the development of class conflict and oppression of the working class in the capitalist society will inevitably require the offensive or perceived defensive use of force to bring about a socialist society.

There are also at least a handful of SWP members or other persons, as reported by some informants, addressing SWP meetings giving voice to views that could reasonably be regarded by some as contemplating violence or unlawful activity on behalf of the plaintiff

organizations.

(e) Reference is made by informants to organizing rallies "to stop", to interrupt, or to embarrass at public assemblies those speaking whose views were unacceptable to the organizations. There is no indication that the efforts involved would include particular physical acts or violence.

(f) There are many instances reported in which members travelled outside this country to meet with party members in other countries and to consult with party members at the headquarters in Europe of the Fourth International. Members also met with officials of foreign governments.

(g) There are many instances of nationals from foreign countries and some instances of representatives of foreign countries speaking at SWP and YSA assemblies.

4. The informants reported constantly on the names, addresses, telephone numbers, places and changes of employment, unemployment, marital or co-habitational status, marital strife, health, travel plans, and personal habits of SWP and YSA members. The FBI was made aware, through the efforts of the informants, of the identity of evidently every SWP or YSA member in

each branch during the period there was an informant active in that branch. Active, "hard core", and leader SWP or YSA members were often identified as such.

5. Informants were encouraged to advance in the SWP and YSA by, among other things, cultivating and maintaining relationships with SWP and YSA leaders so as to develop sources of information and to be in a position to be considered for future leadership positions.

6. The FBI rendered assistance, both through advice and through interference, to informants who were questioned by the IRS about reported income representing payments from the FBI. On at least one occasion the informant was instructed to mislead the IRS as to the source of income.

7. There are repeated indications of friction and in some instances violent confrontations between the SWP and the Communist Party and other leftist groups.

8. The informants supplied the FBI repeatedly with (1) information concerning the personnel, finances and organizational strategy of the SWP and YSA; and (2) SWP literature given them as SWP or YSA members with the instruction that it was for members only.

9. Informants served in the following positions in the SWP or YSA: member of branch executive committee¹, branch treasurer², chairman and member of branch financial committee³, branch secretary⁴, chairman of meetings⁵, financial secretary⁶, alternate to branch executive board⁷, recording secretary⁸, acting organizer⁹, head of social committee¹⁰, and branch organizer¹¹. Informants participated in literature sales, other fund-raising activities, and at least one informant was director of a local fund-raising drive.¹²

10. Informants were requested to and did report constantly on upcoming SWP or YSA demonstrations. The FBI frequently alerted local police or other law enforcement agencies

and photographed persons attending such events.

11. Informants constantly apprised the FBI in advance

of upcoming visits by SWP Presidential and Vice-presidential candidates and by other SWP and YSA national officials.

12. Informants frequently identified SWP and YSA members from photographs shown them by the FBI and also provided the FBI with photographs they had taken of SWP and YSA members.

13. Many informants reported on other groups classified by the FBI as being so-called "leftist" organizations.

14. Many informants reported violent confrontations with and disruptions caused by rightist groups.

15. Twelve of the informants were repeatedly advised by the FBI that both their relationship with the FBI and any information they reported were to be kept confidential. At least five informants signed statements agreeing to keep their relationship with the FBI confidential. At least one informant was told by the FBI that his identity would not be disclosed.

16. Five informants expressed a willingness to testify in open court or before an administrative hearing board. Of these informants, two later expressed fears of harassment if their identities became known and two later advised that they no longer wished to testify.

Six informants have advised that they are unwilling

to testify and three informants expressed concern over the consequences of having their identities revealed without expressly stating their willingness or unwillingness to testify.

B. Specific

1. Informant No. 1121 was approached by the FBI in the fall of 1973 to inquire generally of his knowledge about SWP-YSA, the local headquarters of which were in the building served by him as janitor. This informant had previously furnished trash to the FBI in an investigation unrelated to SWP or YSA. The informant was never an SWP or YSA member. The informant offered to provide the FBI with SWP-YSA trash and did so.

The local FBI bureau requested permission to use this informant on a regular basis, probably as a so-called "trashcover." The FBI headquarters responded to that request as follows:

"Authority not granted to use captioned individual as an informant or confidential source inasmuch as you intend to utilize this individual's services as a trash cover.

This denial is based upon the controversial nature of your request; as a matter of policy it is not deemed advisable at this time to approve your request.

Under no circumstances are you to utilize the services of captioned individual as you intended without Bureau approval."

There is no indication in the file that this informant was used after receipt of this communication.

The SWP-YSA trash previously furnished the local FBI office by this informant contained pamphlets, sales reports, minutes of meetings, notes about SWP matters, membership lists, financial records, and miscellaneous papers and notes including references to YSA as a "revolutionary youth organization" and to "Stalinists as our major opponent"

2. One informant was elected Treasurer of the YSA branch on which the informant was reporting. The informant promptly furnished the FBI with a list of YSA members in that branch and their dues payment record. This information was taken from records available to the informant as Treasurer.

3. One informant became the Educational Director (literature agent) of the SWP branch to which the informant belonged. This informant was also consulted on policy decisions, gave lectures, and, according to FBI reports, was requested to start new SWP branches.

4. One informant was elected to the local YSA Executive Committee and on a number of occasions furnished names and assignments of YSA members and financial data taken from Executive Committee records.

5. One informant was assigned to organize sales of the "Young Socialist" and furnished the FBI with a list of locations where papers were regularly sold.

6. An informant, who had consistently been rated reliable by the FBI, reported that: (1) during the informant's six-year association with SWP and YSA during the 1970's, neither organization advocated violence or terrorist tactics; and (2) SWP and YSA members who advocated violence or disorder as an organizational policy were expelled.

7. One informant was named an SWP branch Treasurer and reported to the FBI that all membership and financial records were now in the informant's possession. The informant regularly furnished copies of those records to the FBI.

8. A member-informant repeatedly supplied the FBI with trash from an SWP branch for a period of years in the 1950's. The trash included, inter alia, something the FBI described as the key to the Party membership code, original Party member cards, dues payment records, contributions, length of membership records, minutes of regular branch and executive committee meetings, correspondence, reports, and memoranda. FBI reports noted that the "trash" information the informant had provided was regarded as of "considerable value and the informant was given additional compensation for ... trash retrieval."

9. One informant was designated to collect mail and to handle other business for an SWP branch organizer in his absence. The informant reported to the FBI that first-hand pertinent information could therefore be furnished. The informant later supplied information on SWP finances, long distance phone calls, membership lists, and SWP organizational plans.

10. One informant was often asked to handle all branch business in the absence of the SWP branch chief officer.

11. An informant was the financial and recording secretary of an SWP branch and provided the branch financial statements to the FBI.

12. Several informants enjoyed the confidence of branch organizers and were thus able to secure information not otherwise obtainable. One of these informants also enjoyed the confidence of a member of the SWP National Committee.

13. An informant served as director of a local fund drive for the "Militant".

14. An informant who held various offices, including member of the Executive Committee, of a western YSA branch "reported [to the FBI] miscellaneous information obtained from ... YSA office records." The file indicates that the

informant's positions gave the informant "access to otherwise unavailable information."

15. There is a January 28, 1974 memorandum from FBI headquarters to a branch FBI office concerning informant No. 616 who had risen to prominence in a local YSA branch that included the following instruction:

"Insure that informant's activity in the Socialist Workers Party in no way enhances the development or progress of the organization."

16. One member informant "made available [to FBI] copies of documents prepared solely for internal dissemination in the IT"

17. An informant who is reported by the FBI to have had "legal access" to the apartment of a local YSA organizer made available documents, principally lists of members and potential members and minutes, obtained from the organizer's apartment. The documents were photocopied by FBI agents.

18. One informant was instructed by the FBI to "infiltrate" a western SWP branch soon after its formation so that the FBI would have an informant in that branch.

19. A November 1972 letter from a local FBI office to FBI headquarters reported that the informant involved "had

the ability to provide complete membership lists and financial statements of the SWP without being compromised." The file in fact contains copies of such documents furnished by the informant.

The file contains no information indicating that the informant had authorized access to such documents.

20. One informant who was employed at a hospital periodically supplied the FBI with dozens of hospital records (medical and admittance records) of SWP members, relatives of SWP members, and persons identified with other groups being surveilled by the FBI.

For example, one FBI memorandum reads:

"The attached [hospital] record was furnished by [informant] to [FBI] on It pertains to the subject's son, who was a patient at ... Hospital during January of this month [sic]. The record contains background information not previously in possession of this office.

The source of this information should be concealed if the information is used and information carefully paraphrased to protect [the informant's] identity.

A copy of the record is not being attached to the 134 file but to main file only."

Another FBI memorandum covering a hospital admittance record furnished by the informant notes:

"Care should be exercised in dissemination of this information since hospital records are confidential."

21. One informant served as Secretary to a local SWP branch and on numerous occasions furnished transcripts of both closed branch and executive board meetings.

22. One informant worked in a local SWP office over a ten-year period opening all mail and regularly furnished the FBI with mailing lists, minutes of meetings, card file, flyers, leaflets not publicly available, financial reports, projections and budgets, and all incoming and outgoing correspondence.

23. One informant served as an SWP branch organizer for many years. The informant periodically reported to the FBI that the branch was making no effort to recruit new members.

An FBI memorandum reported that the informant is the SWP branch "organizer ... and as such used [the informant's] influence as well as [that of another informant] to suppress Branch activities and recruiting by the Branch as well as other related activities."

The informant had access to most, if not all,

branch correspondence and made available such correspondence to the FBI.

24. During November 1960, one informant reported to the FBI the names of all persons who showed any interest in the SWP during the election campaign that year.

25. At least two informants, following FBI instructions, periodically urged at SWP meetings that contributions and dues be lower than they were or lower than figures suggested by other members.

26. A memorandum from a local FBI office to FBI headquarters dated September 13, 1956 and captioned

"Socialist Workers Party Internal
Security - SWP"

contained the following entry:

"Re Bulet to New York, 8/29/56

* * *

In view of the size and activity of the branch and the present status of the informants it is not believed the program as suggested by the Bureau could be placed in operation [here]. It is suggested that literature criticizing the Communist Party indicating it might emanate from the SWP, might be mailed to security index subjects or subjects on a more selected basis to prolong the current troubles of the CP and to also act as a softening of the CP member

for contact by Bureau agents under the current informant program."

A December 31, 1956 memorandum from the same local FBI office contained the following entry:

"COMMUNIST PARTY, USA
COUNTER-INTELLIGENCE PROGRAM
IS - C

Re Bulet to [local FBI office],
11-5-56 and Bulet to NY, 12-18-56.

The [local FBI] Office has been mailing SWP literature as authorized in relet, 11-5-56. To date no reports have been received of any results obtained from such mailing."

27. In the early 1970's, an informant gave the following evaluation of the SWP and YSA in a western city:

"I have observed the SWP and YSA in [a western city] for over 10 years now, and have been acquainted with several of its members and former members. They have been devoted Marxists, but have advocated change by working through the system, and have made a point of having no members that advocated violence."

Part III

Actual Facts Reported in Files

Many of the items identified in this section of the report may be totally innocuous or may be part of the FBI disruption program; the files do not provide sufficient information to resolve the issue.

The items are grouped into rough categories that should be useful for comparing the items against information plaintiffs already have and for seeking additional discovery should plaintiffs be so advised.

A. Items relating to the employment of SWP or YSA members

1. The Chairman of SWP, Boston, Barry Sheppard, whose relationship had previously been disclosed to the FBI by an informant, was forced to give up his job in January 1961 because his employer adopted a security clearance check.

2. An informant reported an announcement at a 1962 SWP meeting to the effect that Wendell Phillips had been discharged from his teaching position at a junior college in California because of his affiliation with the Communist Party and SWP.

3. In 1962, the FBI was informed that Ann

Zielinski, possibly an SWP member, was to begin work as a school teacher.

4. In 1963, an informant reported that a Mike Johnston was interested in the Minneapolis SWP branch but was afraid the FBI would find out. Johnston was reported to have said he would like to go into Army Intelligence and that he had taken tests for that work.

The FBI distribution sheet covering this informant's report contains the following entry: "Bill Claus of INTC was advised re Mike Johnson by SA ...on 12/30/63."

5. A 1973 informant's report of a local SWP meeting contained the following entry:

"Marc Stretter is having trouble in California. The hospital where he works is trying to fire him. His employer has been contacted by the FBI. His attorney is Ronald Merlino. He plans to sue the hospital and perhaps the U.S. government or FBI."

6. In 1974, it was reported to the FBI that SWP member Reiko Obata was then employed at Oakland naval base.

7. In 1976, an informant reported that Susan Walton Banks, a supply clerk in the U.S. Department of Agriculture,

was an active YSA and SWP member in Oakland, California.

8. In 1976, an informant reported that Patricia Anne Mayberry, a Medical Radiology Technician, Letterman General Hospital, Department of the Army, was still active in the San Francisco YSA and was on the executive committee.

B. Reports of arrests and threatened arrests of SWP or YSA members

1. In February 1962, a YSA member was arrested during a freedom-ride/sit-in picket in Easton, Maryland.

2. Several YSA members were arrested in Washington, D. C. in January or February 1963, while picketing on behalf of William Worthy.

3. In April, 1967, it was reported that at a fund-raising party given by the Student Mobilization Committee two SWP members were arrested.

C. Threats, violence, and other disruptive activity directed at SWP or YSA

1. The FBI was informed that in February 1955, there was theft of money and supplies from SWP Minneapolis headquarters.

2. An informant supplied the FBI with a sketch of the floor plan of Minneapolis SWP headquarters in September 1955.

3. The FBI was informed that in May 1956 there was a break-in at and theft of beverages from SWP Minneapolis headquarters.

4. An informant reported that at an October 1960 Minneapolis SWP meeting Carl Feingold reported that SWP headquarters had been broken into and \$50 taken from the strong boxes. Feingold is reported to have added that whoever took the money got into the headquarters by key and knew where the keys to the strong boxes were kept.

5. At a 1965 SWP meeting, it was stated that Wilson Graves has been showing up at meetings and causing trouble.

6. In 1968, one informant reported being told by a member of an organization whose espoused purpose was to end the war in Vietnam that the headquarters of that organization had been broken into and that he was puzzled because of the amount of work it took to get in and yet only a typewriter was taken. The informant reported that he suggested to the member that the break-in may have been to copy records or to "bug" the place.

The FBI distribution sheet covering this report

shows a cross-reference to an FBI file on an SWP branch.

7. In 1971, two Blacks entered a Pathfinder Bookstore and broke up an SWP meeting.

8. An informant reported that at a weekly SWP meeting in 1971, a report was given concerning harassment directed by the Klan (United Klans of America) at the local SWP and its leaders, including the use of menacing stickers and harassing telephone calls.

9. There are references in 1973 informant reports to physical attacks by the National Caucus of Labor Committees (NCLC) against SWP and YSA and the resulting cancellation of several scheduled SWP-YSA events. One of the reports indicates that several SWP members were hospitalized as a result of an NCLC attack. The informant's report contains no information about NCLC itself but there is a cross-file reference on NCLC of 100-165744.

10. During a 1973 meeting reference was made to the bombing of PRDF and related offices by undescribed right-wing terrorists in conjunction with the Federal Government.

11. In 1975, a description of a bombing of the Los Angeles SWP headquarters was read at an SWP meeting in San Francisco.

12. An informant reported in 1975 that the mimeograph machine belonging to the Chicago I.T. new faction had been stolen. The informant report attributed the theft to "members of the Chicago RMOC, Chicago Red Circle Study Group."

13. In 1970, an informant reported having been told that an individual (apparently an SWP member) had been asked by members of an organization apparently unrelated to the SWP to hide their weapons for them because the FBI had questioned members of that organization, and such questioning had been followed some time later by acts of violence by persons not otherwise connected with the FBI or any other group. The individual refused to become involved in hiding the weapons.

14. A 1973 informant report contained the following:

"Sid Stapleton said that the same group of Cubans (CIA) who broke into the Ellsberg's Psychiatrist's office broke into the Los Angeles headquarters of the SWP in 1970. He said the FBI has been the driving force behind encouraging acts aimed at discrediting the left - such as planning and encouraging groups of the left to plant bombs, etc.

Sid Stapleton said the SWP has continually been subjected to harassment by the government, and denied equal protection, and that the Ervin committee has not disclosed all it knows, or it would be telling about the harassment of the left. He said that the Left can now present to the public the situation, since the political climate has changed, and the people are

more aware - that it is now more difficult for the government to convict people with leftist ideology - because of the court battles that the SWP and others have fought and won. The left has more public sympathy than ever before, so now the SWP can go on the offensive, try to gain full support - through the law suit against Nixon, and demands to gain full civil liberties - to make it illegal for the government to wiretap or infiltrate political parties in the left. Sid Stapleton said that if the government tries to convict anyone in the left, they should have to prove that the information was not from these tactics."

D. Items that may bear on the peaceful nature of the plaintiff organizations

1. In 1964, a CABS* spokesman was reported to have said, "YSA didn't advocate the violent overthrow of the U.S. Gov't as long as democracy prevailed."

2. One informant's file contains a copy of an April 1965 communication from a branch FBI office to FBI headquarters transmitting details of a proposed march in the Washington, D.C. area. Some of the information appears to have been obtained by an FBI agent posing as an interested college student.

The FBI communication reflects that:

* Committee To Aid The Bloomington Students.

"The sources stated that no disturbances are planned in conjunction with the Student March on Washington."

3. At a meeting of a local SWP branch in 1967, a discussion was held on whether the SWP should cooperate with a draft-resistance group. A decision was made to send an SWP observer to the next meeting of that group to determine if it was a non-violent group.

4. In 1969, an informant reported being told by an SWP member that the Socialist Workers Party was the one left-wing group from which the FBI had to back down.

5. At a 1972 meeting, it was reported that SWP does not stress participation in Attica demonstrations in New York City because it fears violence and "they consider themselves to be a nonviolent organization."

6. One file contains a May 1973 description of SWP's attempt to form an international minority tendency in opposition to the majority of the Fourth International which advocates guerrilla movements to establish Marxist-Leninist governments in South America.

7. The appendix to a February 1975 FBI report describes the SWP and the Fourth International as follows:

"SOCIALIST WORKERS PARTY"

The Socialist Workers Party (SWP) is a revolutionary, Trotskyist-communist organization, which is headquartered in New York City. Its purpose, as stated in its Declaration of Principles, is the overthrow of the U.S. Government and the institution of a dictatorship of the working class and the eventual achievement of a communist society. It was founded in 1938 and maintains close association with international Trotskyist organizations as a 'sympathizing' group, but it denies formal membership in any foreign group to escape application of the Voorhis Act, which regulates certain types of organizations subject to foreign control. While the SWP does not openly advocate the use of violence at the present time to overthrow the U.S. Government, it believes that eventual violent revolution in the U.S. is inevitable. Its objection to the current use of violence is based on the ground that it believes violence is premature at this time. The SWP seeks to precipitate a revolution when conditions are ripe and to seize control of the revolution and to direct it when it occurs.

FOURTH INTERNATIONAL

The Fourth International (FI) was founded in 1938 at Paris, France, embodying the ideological position of Leon Trotsky of 'continuing revolution' in the application of Marxism. The FI is the largest Trotskyist group with worldwide representation. The Socialist Workers Party (SWP), a U. S. based Trotskyist group, participates in FI activities and leads a faction of the FI, although it does not maintain formal membership in the FI. The dominant faction

of the FI, in February, 1974, took the position of favoring the current use of guerrilla warfare and armed struggle to achieve a revolution in Latin America if local conditions indicate that such violence would enhance the revolution."

8. On November 10, 1975 an informant, rated reliable by the FBI, reported that SWP refuses to support advocacy of guerrilla activities in South and Central America, whereas the Internationalist Tendency does support such activity.

E. References to this lawsuit

1. In 1973, an informant reported that an SWP member had spoken about a branch's involvement in the SWP lawsuit and had said:

"1. 5 supporters of the SWP in Seattle were contacted by the FBI, and the FBI tried to scare them off by informing them that it was a subversive organization - that the parents of a highschool girl were told by the FBI that their daughter was involved with a 'violent organization.' 2. The [Washington State] Attorney general turned over to the FBI petitions of signatures to put minority parties on the ballots, which the FBI then used to contact these people. 3. The SWP has concluded that the shotgun blast of the Militant Bookstore - before Linda Jiness visited Seattle before the '72 election may be connected with the CIA."

2. One informant's administrative file contains the following entry dated August 1974: "[The informant], through attendance at branch meetings, affords coverage on the activities of the PRDF [Political Rights Defense Fund] and the SWP-YSA legal suit against the U.S. Government."

That same file contains an almost identical entry dated February 1975.

3. There is an entry in one informant's administrative file dated April 1974 that says the informant has "provided information on the upcoming lawsuit against the FBI in New York."

F. FBI instructional memoranda

1. The following is a March 1955 FBI memorandum apparently sent to local FBI offices:

"Loyalty Oaths and Forms

As you have been advised, SAC Letter 53-55, Section I, set forth procedures to be followed whenever an informant is required to sign a loyalty oath or form. You were advised that the Department had stated that it is their opinion that an informant can legally and morally deny on loyalty oaths and forms any subversive activity undertaken by the informant solely for the purpose of assisting the Government. You were further advised that the Department agreed that activity prior to informant status had to be admitted by informants confronted with loyalty oaths inasmuch as such activity was undertaken in good faith and during that period the informant was actively serving the aims and

interests of the subversive organization rather than those of the Government of the United States. The Bureau in SAC Letter 55-20, Section T, has advised that it has reexamined the problem of loyalty oaths as it pertains to security informants and in view of present conditions, it is felt that the procedure of having an informant deny subversive activity undertaken for the benefit of the Government should be discontinued. Henceforth, no informant is to be advised to sign such a loyalty oath or form in the negative, even though the informant may have undertaken his entire subversive activity solely in order to furnish information. You should attempt to guide your informants away from situations requiring loyalty oaths. It should be explained to them that the Bureau is not in control of situations of this type and, therefore, cannot guarantee to the informant that it will be able to protect the informant's interests if he is confronted with a loyalty oath or form. You should be alert to the possibility of any of your informants signing loyalty oaths and all informants should be cautioned to keep the ... Office fully advised of any possibilities along this line.

It is realized that there will be situations where the signing of a loyalty oath or form by an informant will be inescapable. Henceforth, each such situation will be considered on its individual merits and as a last resort the Bureau will consider advising the interested agency of the relationship of the informant to the Bureau and of pertinent facts concerning the informant's activity on behalf of the Bureau. Such situations must be held to a minimum, however, in view of the obvious threat of exposure of an informant through this action. You should carefully consider each and every situation wherein one of your informants is to be confronted with a loyalty oath and you should furnish to the Bureau full facts concerning the situation together with your recommendation

for proposed action. In no instance, however, should you permit an informant to sign a loyalty oath in the negative and your recommendation for proposed action should be submitted sufficiently in advance for the Bureau to give full consideration thereto.

Captioned informant should be advised as indicated above and a notation should be placed on this serial that same has been done. The serial should be returned to the informant's file.

Development, Indoctrination and Control

SAC Letter 55-21, Section (H), dated 3/10/55, sets out that it is essential during initial development of a security informant and consistently thereafter, that the informant be impressed with the absolute necessity that he refrain from divulging, through any media, any information regarding his relationship with the Bureau. The instructions to the informant in this regard must be properly worded and phrased so as to prevent any possibility of the Bureau's being accused of attempting to impose censorship. These additional precautions have been deemed necessary in view of recent incidents where disclosed informants have evidenced a desire to write articles on the basis of their past relationship with the Bureau.

In the future when furnishing information to the Bureau regarding stability of security informants every three months in accordance with SAC Letter 55-15 dated 2/17/55, and as previously set out in memorandum of SA MOONEY dated 3/3/55, a copy of which was routed to this file, it must also be stated that every opportunity has been taken to properly indoctrinate the informant against making any disclosure of his relationship with the Bureau through any media.

In summary, the following are specific

comments which must be made in justification letters on security informants as set out in the Manual and SAC Letters:

1. It must be stated that all pertinent information received from the informant has been disseminated to the proper case files at ... and that the Bureau and interested offices have been apprised of the appropriate information made available by the informant.
2. It must be stated that information received from the informant has been checked where possible against reports submitted by other sources and has been found to be reliable (or unreliable, if such is the fact).
3. Comment must be made regarding personal weaknesses, domestic difficulties, indication of untrustworthiness or unreliability, or similar problems with regard to the informant, and comment must be made as to the steps being taken to prevent informant from becoming a source of embarrassment to the Bureau.
4. A statement must be incorporated to the effect that every opportunity has been taken to properly indoctrinate the informant against his making any disclosure of his relationship with the Bureau through any media.
5. Justification letters should conclude in the following fashion, I therefore recommend that authority be granted to continue (increase, decrease) payments to the above informant up to \$___ per (month, week) for services, plus \$___ per (month, week) for expenses actually incurred for a period of three months, effective (date)."

2. The following is an FBI memorandum dated December 1955 apparently sent to local FBI offices:

"Reference is made to my memo to SAC dated 11/4/55 which set out instructions contained in SAC Letter 55-68(M) dated 11/1/55.

SAC Letter 55-73(M) dated 11/29/55 further advises with regard to COMMUNIST PARTY ATTEMPTS TO ASCERTAIN IDENTITIES OF BUREAU INFORMANTS AND POTENTIAL GOVERNMENT WITNESSES and the procedure to be followed by current confidential informants should they be requested to make an oral admission or sign a statement to the effect that they had never heard the defendants in a Smith Act or other security trial or hearing teach or advocate overthrow of Government by force and violence, that this matter has again been taken up with the Department and the Department has decided that due to the delay experienced in bringing security cases to trial, current confidential informants scheduled to testify at security trials or hearings should make such an oral admission or sign such a statement, if requested to do so, up to the time the trial or hearing actually begins. If contacted, these informants should, of course, immediately (on the same day if at all possible) submit a report to the field office setting out complete details of the contact, the nature of the admission made or the contents of the statement signed. The report should clearly state that the admission was made or the statement signed not because it was true but solely to protect the informant's status. Once the trial or hearing actually begins, however, informants scheduled to testify should not make such oral admissions or sign such statements if they are not completely true, although their refusal to do so may result in their exposure as informants or in their expulsion from the Communist Party.

The Department specifically requested that informants scheduled to testify at the Cleveland, New Haven, and Buffalo Smith Act trials remain under instructions not to make such an admission or sign such a statement since the Cleveland and New Haven trials are currently in progress and the John Noto membership trial in Buffalo is scheduled to begin in the immediate future."

3. The following is an FBI memorandum dated February 1956 apparently sent to local FBI offices:

"SAC Letter 56-8 (E) reiterates that Section 107 (F) of the Manual of Instructions requires certification letters be sent to the Bureau on paid and unpaid security informants regarding informant's stability and his indoctrination against divulging relationship with Bureau through any media.

Effective immediately above certification letters regarding unpaid security informants must also set out informative summary of information furnished by the informant during the past three-month period.

The above SAC Letter further states that in order to increase the effectiveness and value of both paid and unpaid security informants, the Bureau desires that all informants not only engage in normal organizational activity, but when feasible, accept direction from their leaders, request instruction and interpretation of the organization's precepts; and request leaders to furnish sources for study purposes. Instead of quietly sitting back as observers, informants should be instructed to enter into discussions being held. Instruct your informant to promptly report changes in an organization's

conduct, policy or strategy and give their opinions, clearly labeled as such, of the motivation behind such changes.

The above informant should be instructed concerning the Bureau's desires as set out above, an appropriate notation should be placed on this memorandum showing that same has been done, and it should be returned for filing."

4. The following is an FBI memorandum dated April 1957:

"SAC Letter 57-22(L) dated 4/16/57 sets forth the following with regard to indoctrination, development and control of security informants:

Failure of security informants to advance to higher positions in subversive organizations can be directly attributed in many instances to their failure to contribute anything to activities of organizations in which they hold membership except personal attendance and money. It is axiomatic that value of informants increases with their advancement to higher levels in subversive movements. As you have been previously advised, the Communist Party in particular looks with suspicion upon an individual who is unable to grasp communist ideology and is reluctant to participate in theoretical discussion. The Party presumes that such an individual limits his participation for fear of exposing his ignorance of Party theory. It is reasonable to assume that the attitude of leaders of other subversive organizations would be the same.

Section 107-F, paragraph 13, Manual of Instructions, provides that security informants should engage in normal activity of subversive organizations in which they hold membership and should enter discussions rather than sit back quietly as observers. In view of current dissension, factionalism and important discussions within ranks of CP, these instructions should be reiterated to informants at this time. In order to enhance informants' effectiveness in this respect, afford them continuous and systematic instruction in theory, background and aims of subversive organizations in which they hold membership, utilizing to fullest extent research material furnished by Bureau. Additional material suitable for this purpose is in preparation and will be furnished to field in near future."

G. Miscellaneous items

1. In at least 1956 a Post Office Inspector in San Francisco made available to the FBI outgoing copies of Daily People's World that had been delivered to the post office for shipment.

2. A Minneapolis FBI memorandum dated April 1957 contains the following: "... informants have been used to a great advantage in connection with the Communist Party counter-intelligence program in which great strides have been made during this period in SWP members making contacts with local CP members." The informants referred to were SWP members.

An FBI memorandum dated July 1957 contains a similar entry which is followed by: "During the period in question on three separate occasions informants have furnished information used in connection with 'Cinal'."

3. A memorandum from the Minneapolis FBI office to FBI headquarters dated September 1958 contained the following entry: "... informants, during the period in question have been utilized effectively in connection with the CP counterintelligence program, in connection with the SWP phase of this program."

4. Shortly after informant 1350 volunteered his assistance to the FBI (1960), the local FBI office recommended to FBI headquarters that the informant be considered for Panel Source Program. The file contains no explanation of the Panel Source Program.

5. One informant's administrative file contains the following entry dated May 1963:

"The informant is concentrating [the informant's] efforts on reporting business activities which, of course, should be done, but [the informant] is not furnishing sufficient information to show the subversive nature of the meetings and activities. Therefore, it is suggested that this informant be developed along the lines of furnishing higher quality information of a subversive nature and at the same time furnish the details of business activities, as [the informant] is already doing. Discussion by [the

informant] with those active in subversive activities along these lines, must, of course, be discreet, and you should furnish [the informant] careful guidance in this respect."

6. In 1964, an informant reported having been told that two Minneapolis YSA members, Bob Mears and Ernie Swanson, had been elected to go to Cuba the following summer under YSA auspices and that the Cuban Government would pay most of the expenses.

The FBI distribution memorandum covering this report contains the following entry: "Will follow possible application for passports by Mears & Swanson & take proper action."

7. In 1966, the FBI was informed that Mary Walter, who had worked with SWP on demonstrations, had been evicted from her apartment.

8. A 1969 FBI memorandum from an FBI agent to SAC, Minneapolis contained the following:

"Relet points out that the Communist Party, USA, held a meeting in New York City, ... 1960, where GUS HALL, Communist Party, USA, General Secretary, discussed a number of subjects, including factionalism. HALL remarked that factionalism is the 'tool' of the FBI and has been used by the Bureau to cause disruption in the Party. He remarked the FBI uses

factionalism to its own advantage and constantly interferes in the affairs of the Communist Party. HALL stated factionalism will no longer be tolerated and any CP member who engages in factional disputes will be considered to be working in behalf of the 'enemy.' In his remarks HALL stated that from now on the Communist Party will publicize approaches to interview CP members by the FBI and castigate the FBI.

The Bureau points out that in view of remarks made by HALL, confidential informants must again be alerted to be extremely discreet in their day-to-day CP activities and contacts. Confidential informants should not engage in any factional disputes or other activity which might cast suspicion on them as being FBI informants. The Bureau points out that this does not mean that informants should not continue to criticize the Communist Party when such criticism has a logical and legitimate foundation.

Agents handling confidential informants who are participating in the Counterintelligence Program must be particularly careful in directing the activities of these informants, so as not to cast suspicion on them or their activities which tend to disrupt the Communist Party."

9. A 1974 informant report contained the following entry:

"The Woman manager of the hotel in St. Louis where the YSA plans its national convention was visited by the FBI. She informed either the YSA or SWP and they in turn sent an attorney to visit her

and she gave him the details and signed a statement."

10. One of the informants attended the National Convention of the Students for a Democratic Society held in June 1968 at which a workshop entitled, "Sabotage and Explosives" was held. The informant reported that the discussions at the workshop included methods to disrupt Selective Service facilities.

Part IV

Conclusive Presumptions*

A. Items relating to the employment of SWP or YSA members

1. In 1960, an SWP member reported that the FBI had "contacted" his "boss" about him. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item,** it should be conclusively presumed that the employee lost his job as a result of FBI activity. (Item A(1))***

2. In 1961, an SWP contact whose relationship had earlier been given to the FBI lost his position as a minister. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the loss of the position resulted from FBI activity. (Item A(2))

3. In 1961, an SWP member was discharged from his job at a company in the steel industry. Unless the Government is

* The subsections of this part of the report correspond to those of Part III. As stated earlier (at page 12), these conclusive presumptions make assumptions that in many instances exceed what plaintiffs or the fact finder would have been entitled to infer from the deleted information.

** The reference to all information should be understood to exclude the citations following the Part III items.

*** All citations are to Exhibit 1, Part III.

prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the loss of employment was attributable to FBI activity. (Item A(3))

4. In 1963, an informant reported that a YSA member was employed by a company in the aerospace industry. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the employee lost his job as a result of FBI activity. (Item A(7))

5. In 1963, an informant reported that a member of the Fair Play for Cuba Committee had applied for a job with a company in the aerospace industry. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III items, it should be conclusively presumed that the person failed to obtain the job because of FBI activity (Items A(8) and (9))

6. In 1964, an informant reported that an SWP member was employed by a large manufacturing company. Four months later, it was reported that the SWP member was employed in a different industry. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the person lost the first job as a result of FBI activity. (Item A(11))

7. In 1964, an informant reported that a certain named person held a security position with the Government and that that person's spouse was employed in the aerospace industry. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that both persons were SWP members and that both lost their employment as a result of FBI activity. (Item A(12))

8. In 1965, an informant reported that a named SWP member was planning to do SWP work at the member's place of employment. The FBI memorandum covering this informant's report reflects a request to the informant to obtain the employment record of the named SWP member. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that this person's job was lost as a result of FBI activity. (Item A(25))

9. A 1966 FBI memorandum reports that a named SWP member was then employed. The FBI gave that information to the State agency in charge of the State's unemployment compensation program because the FBI was aware that the SWP member had been receiving unemployment compensation. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that that person ceased receiving unemployment compensation as a result of FBI activity. (Item A(24))

10. A 1967 FBI memorandum states that a certain named individual, who was then applying for a position with the United States Government, had been in attendance at an SWP meeting 14 or 15 years earlier. The FBI memorandum also states that the informant involved would not recommend this person for a position of trust with the United States Government. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that that person did not obtain the position sought as a result of FBI activity. (Item A(13))

11. In 1968, an informant reported that a certain named individual, who was then a Post Office employee, had formerly been a member of the Fair Play for Cuba Committee and the SWP. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that this person lost the Post Office position as a result of FBI activity. (Item A(26))

12. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that: (1) a certain named person, who had attended an SWP nominating convention and who was, in the early 1970's, employed by the United States Government, was questioned by the Government concerning the person's association with the SWP; (2) the FBI

conducted an investigation of this person which included the questioning of friends and associates; and (3) the persons involved severed all relationships with the SWP as a result of these actions taken by the Government. (Item A(27))

13. In 1971 and 1973, an informant reported that two named individuals, who were described as hardworking YSA members, were public school teachers. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that they lost their positions as a result of FBI activity. (Item A(14))

14. In 1972, an informant reported that an SWP member was employed by the Postal Service. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the person lost his position with the Postal Service as a result of FBI activity. (Item A(15))

15. In 1972, the FBI was informed that a certain named individual was then employed in the aerospace industry. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the person was an SWP member and that he lost his job as a result of FBI activity. (Item A(16))

16. A 1972 FBI memorandum reports that a YSA member

had applied for a job in the automotive industry. The memorandum also contains a request that the prospective employer be contacted with respect to the YSA member's application. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the person did not obtain the job sought as a result of FBI activity. (Item A (17))

17. In 1974, the FBI was informed that two SWP and YSA members were teachers. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III items, it should be conclusively presumed that both lost their teaching positions as a result of FBI activity. (Items A(20) and (21))

B. Arrests and threatened arrests
of SWP and YSA members

1. In late 1961 or early 1962, two SWP members were arrested by local police while selling papers on a college campus. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the arrests resulted from information transmitted by the FBI without there being any presumption as to the lawfulness or unlawfulness of the arrests or whether they were grounded on criminally culpable conduct. (Item B(1))

2. In 1962, an informant reported that a named SWP member and another individual not identified as an SWP member were arrested by local police while speaking at a street meeting. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the arrests resulted from information transmitted by the FBI without there being any presumption as to the lawfulness or unlawfulness of the arrests or whether they were grounded on criminally culpable conduct. (Item B(3))

3. In 1964, an SWP member was arrested by local police for loitering and resisting arrest. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the arrest resulted from information transmitted by the FBI without there being any presumption as to the lawfulness or unlawfulness of the arrest or whether it was grounded on criminally culpable conduct. (Item B(5))

4. In 1971, an informant reported that a certain named individual had been prevented from speaking at a certain named school by local police who threatened to arrest the individual for loitering. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the threatened person was an SWP member and

that the described actions resulted from information transmitted by the FBI without there being any presumption as to whether an arrest would have been lawful or unlawful or whether it would have been grounded on criminally culpable conduct. (Item B(7))

5. In 1972, SWP members were arrested by local police for selling beer at a fund-raising party. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the arrests resulted from information transmitted by the FBI without there being any presumption as to the lawfulness or unlawfulness of the arrests or whether they were grounded on criminally culpable conduct. (Item B(8))

6. In 1972, local police harassed persons by accusing them of selling beer without a license. No one was arrested. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the persons harassed were SWP members and that the harassment resulted from information transmitted by the FBI. (Item B(9))

7. In 1973, an informant reported that local police had been harassing people selling the Militant in that City's parks. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted

Part III item, it should be conclusively presumed that the harassment resulted from information transmitted by the FBI.

(Item B(10))

C. Threats, violence and other
disruptive activity directed
at SWP or YSA members

1. In 1962, a number of persons, trying to enter a YSA sponsored film showing without paying, caused a disturbance requiring YSA to call the police. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the described event was the result of FBI activity. (Item C(5))

2. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that in 1962, the FBI told the parents of an SWP member who had never been a member of the Communist Party that: (1) the SWP member was being investigated for activities in the Communist Party; and (2) the SWP member should drop all involvement with radicals. (Item C(6))

3. In 1963, an informant provided the FBI with a diagram of a local SWP headquarters. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively

presumed that the FBI requested the diagram to facilitate clandestine entries to the SWP headquarters. (Item C(7))

4. At a 1965 SWP meeting, a member announced that he had received an anonymous letter telling him that another, named SWP member was working for the FBI. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the letter was sent by the FBI. (Item C(8))

5. At a 1965 SWP meeting, a member reported having received a threatening letter with an illegible signature saying that American citizens were tired of the Jews and Reds trying to take over the U. S. and that very soon they would learn that Hitler was mild by comparison. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the letter was sent by the FBI. (Item C(9))

6. In 1966, it was reported that SWP members were receiving anonymous letters mailed from Boston and Los Angeles addressed to Trotskyites. The content of the letters is not disclosed. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the letters contained information harmful to the SWP and that they were sent by the FBI. (Item C(11))

in the corresponding deleted Part III item, it should be conclusively presumed that the telephone call to the local police was attributable to FBI activity. (Item C(18))

11. An informant reported that smoke bombs had been tossed at a YSA assemblage. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the smoke bomb tossing was attributable to FBI activity. (Item C(19))

12. In 1972, an informant reported that the FBI had visited a YSA member and the YSA member's family concerning the member's association with the local YSA branch. The FBI is reported to have stayed several hours and to have said that it had wiretapped the member's telephone. The FBI is also reported to have said disparaging things about the YSA to the member and to the member's family including a statement that in the FBI's opinion the member was being duped by the YSA. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the foregoing occurred as described. (Item C(20))

13. In 1972, an informant reported that a local SWP office had been broken into and that a typewriter and approximately \$100 in cash had been taken. Unless the Government is prepared to allow disclosure of all the information in the

corresponding deleted Part III item, it should be conclusively presumed that the break-in and the taking of the property were attributable to FBI activity. (Item C(21))

14. A 1973 informant report discloses that an SWP-sponsored debate between an SWP member and a member of a rival organization was disrupted by a fight when two people tried to gain entrance to the debate without making the required donation. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the disruption was attributable to FBI activity. (Item C(23))

15. In 1973, an informant reported that a local SWP headquarters had been broken into and that all working files including membership files, national office correspondence, literature, and a large number of books had been taken. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the break-in and the taking of the property were attributable to FBI activity. (Item C(24))

16. In 1973, an informant reported that a letter had been sent to the NCLC, an organization opposed to the SWP and suspected by the SWP of having committed unlawful acts against its members, under the names of SWP members. The letter listed the names, home telephone numbers and addresses of

the SWP members. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the letter was sent by the FBI. (Item C(26))

17. In 1974, an anonymous caller telephoned the local SWP headquarters and warned that the NCLC planned either to attack or to disrupt a forthcoming meeting. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the FBI either made the telephone call or caused it to be made. (Item C(28))

18. In 1975, an informant reported that a group of young men had attacked SWP and YSA members at a local SWP headquarters. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the attack was attributable to FBI activity. Item C(30))

19. In 1975, an SWP member was attacked while selling newspapers. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the attack was attributable to FBI activity. (Item C(31))

20. In 1974, an informant reported that damage had been done to a local SWP headquarters in the amount of \$300. Unless the Government is prepared to allow disclosure of all

the information in the corresponding deleted Part III item, it should be conclusively presumed that the damage was attributable to FBI activity. (Item C(33))

21. An informant reported that someone had taken shots at a local SWP headquarters. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the shooting was attributable to FBI activity. (Item C(35))

D. Items that bear on the peaceful nature of the plaintiff organizations

The Government did not request the deletion of any Part III items in this subsection.

E. References to this lawsuit

The Government did not request the deletion of any Part III items in this subsection.

F. FBI instructional memoranda

The Government did not request the deletion of any Part III items in this subsection.

G. Miscellaneous items

1. In 1966 and 1967, the FBI was informed of personal differences among members in a local SWP branch. Unless the Government is prepared to allow disclosure of all the information in the deleted Part III items, it should be conclusively presumed that an informant in that branch was instructed to take advantage of those personal differences and thereby to assume a leadership position. (Items G(9) and (10), and C(13))

2. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that in 1971 the FBI threatened an SWP member with arrest by the local police for traffic violations unless that member became an informant. (Item G(12))

3. An informant reported that a named individual had dropped from SWP membership (but not from YSA membership) due to pressure from the individual's parole board. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the parole board pressure was attributable to FBI activity. (Item G(13))

4. In 1974, an informant reported that an SWP member and an unnamed student alien had entered into a convenience marriage. The FBI reported this information to the

INS. Unless the Government is prepared to allow disclosure of all the information in the corresponding deleted Part III item, it should be conclusively presumed that the information provided by the FBI resulted in the deportation of the alien student. (Item G(14))

Part V

Negative Findings

1. There are no explicit assessments (or data capable of evaluation) by the informants or by the FBI of any injury inflicted on either of the organizations by informant or FBI activity.

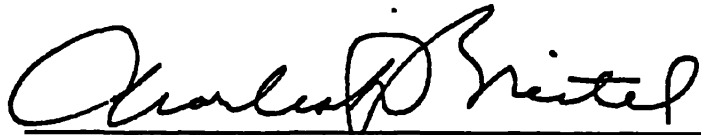
2. There were no clear references to any of the possible Cointelpro activities suggested by plaintiffs in their May 11, 1979 memorandum, except to the extent that acts described in Parts II and III above may reflect Cointelpro activities.

GENERAL FINAL COMMENT

Although every effort was made to have the contents of this report provide plaintiffs with a substitute for access to the files, in the nature of things it is not a certainty that inevitably subjective factors involved in interpretation did not limit achievement of the goal. On the other hand, the significance of access to the 14 files, considered alone, is diminished by several factors. First, the Government's admissions (even if as plaintiffs view them they fall short of all the facts in the case, or even what has been established elsewhere in discovery) with regard to the activities of the FBI are extensive and indeed go well beyond what could have been determined from the 14 files alone. Second, plaintiffs have had access to four of the original 18 files (as well as other files on prior discovery) subject to the present discovery procedures which should give them an excellent idea of the contents of the informant files generally, even if that, too, falls short of actual inspection of the files. Third, the four files also demonstrate, illustratively, that all of the files examined are productive of limited data that may be of use to the plaintiffs.

The comments above would be incomplete if it were not also noted that there is a dearth of data detailing explicit Cointelpro activities by the FBI and the informants. In view of the broad admissions made by the Government, and

from the distribution sheets appended to the files indicating that other files (some denominated Cointelpro files) include copies of the informants' reports, the inference may be drawn that the informant files do not cover all Cointelpro activities in which the informants may have been somewhat or somehow involved. In short, for purposes of elaboration of Cointelpro programs, it is evident to me that the files are not fully self-contained, although presumably complete and undeleted or redacted.

A handwritten signature in dark ink, appearing to read "Charles D. Breitl", written over a horizontal line.

Charles D. Breitl
Special Master

February 4, 1980

Exhibit B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY, et al.,

Plaintiffs,

-against-

ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Defendants.

73 Civ. 3160 (TPG)

DEFENDANTS' MEMORANDUM ON PRO-
POSED ORDER OF INJUNCTIVE RELIEF

RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York
Attorney for Defendants

PETER C. SALERNO
Assistant United States Attorney

RICHARD K. WILLARD
Assistant Attorney General

JOHN J. FARLEY, III
Director, Civil Division
Torts Branch

GORDON W. DAIGER
Attorney, Civil Division
Torts Branch
U.S. Department of Justice

- Of Counsel -

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organizations, with approximately 51 informants serving on executive committees or executive boards. Id. at 1381-82. The Court also found that informants supplied the FBI with approximately 12,600 SWP and YSA documents of which 7,000 were intended to be available only within the organizations. Id. at 1382. The information obtained through surreptitious entries was contained in documents photographed or removed from SWP or YSA premises. Id. at 1394. Such information necessarily has verbatim accuracy. Information obtained through electronic surveillance, both microphone and telephone, id. at 1389, has a similar degree of accuracy. In any event, the Court made no finding that the information obtained by the FBI is inaccurate. The factor of accuracy should accordingly be weighed in favor of the Government.

The Governmental Interests Involved:

The governmental interests affected by denial of use or dissemination of information concerning the plaintiffs held or provided by the FBI are legitimate and substantial. The information, regardless of how it was obtained, serves, in this Court's formulation, "a legitimate purpose for the agency which possesses them." 642 F. Supp. at 1432. Those legitimate governmental interests, which are reflected in the declarations submitted as exhibits to this memorandum, present a basis for the Court to include a provision in its order for injunctive relief permitting the FBI or other affected governmental agencies to apply ex parte to any federal court for an order permitting use or disclosure of particular information otherwise barred by this Court's order, and permitting disclosures in advance of such an order in extreme emergencies.

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The governmental interests in question principally concern federal statutes establishing loyalty requirements for federal employees, related executive orders and directives requiring security clearances for federal employees and employees of government contractors involved in providing classified equipment and services, and the needs of certain agencies having responsibilities to provide physical protection to persons and, where possible, to prevent acts of terrorism. We will relate those interests to the findings of this Court and to recognition accorded them by the Supreme Court and other courts with reference to applicable federal statutes and executive orders.

This Court found that the SWP subscribes to the political and economic doctrines of Marx and Lenin as further articulated by Trotsky. 642 F. Supp. at 1369. It also found that although the SWP appeared too small to implement its goals, id. at 1370, it nevertheless viewed itself as a revolutionary or "combat" party, id. at 1371, which "has not deserted the theory and example of Lenin and Trotsky favoring ultimate violent revolution." Id. at 1373. The Court also found the SWP's stated opposition to terrorism to be unconvincing: through the Fourth International the SWP remained affiliated with other Trotskyist groups that both advocated and practiced terrorism. Id. at 1373-75. For those and other reasons it was -- and is -- reasonable for the FBI and other agencies of the Government to believe that the SWP and its members have a revolutionary ideology whose goal is the violent overthrow of our democratic processes and form of government. See id. at 1370.

Inasmuch as revolutionary ideology is an ingredient in the body of information about the plaintiffs obtained by the FBI during its investigation, it implicates the vital interest of self-preservation of this Nation's form of government under the Constitution. The Supreme Court has noted that self-preservation is "the ultimate value of any society." Dennis v. United States, 341 U.S. 494, 509 (1951). Revolution -- replacement of the present form of our government by means not provided for in the Constitution -- necessarily poses a threat to the fundamental interest of self-preservation. "This governmental interest outweighs individual rights in . . . associational privacy" Uphaus v. Wyman, 360 U.S. 72, 80 (1959). "[W]hile the Constitution protects against invasions of individual rights, it does not withdraw from the Government the power to safeguard its vital interests." United States v. Robel, 389 U.S. 258, 267 (1967), citing Kennedy v. Mendoza-Martinez, 372 U.S. 144, 160 (1963). In light of the teachings of these authorities, this Court should avoid entering an order for injunctive relief that puts the Nation's vital interest of self-preservation at risk.

The principal area where the Court's proposed order may adversely affect the Government's recognized vital interests concerns the responsibilities of the defendant agencies in providing, receiving, or acting upon information concerning the loyalty and security of government employees and government contractors. In 5 U.S.C. § 7311 Congress prohibited the employment of anyone who is a knowing member of an organization that advocates the violent or forceful

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overthrow of the Government. Executive Order 10450 effectuates that statutory mandate. Section 3(a) of that order prescribes that the appointment of each civilian employee shall be made subject to investigation, with a national agency check being the minimum investigation. The scope of any investigation pursuant to that order is to be initially determined with reference to the degree of adverse effect the occupant of a position could have on the national security. Ibid.

The Executive Order further directs that where questions arise in an investigation indicating that "the employment of any such person may not be clearly consistent with the national security, there shall be conducted with respect to such person a full field investigation . . ." or such lesser investigation as will be sufficient for the agency head to determine whether the employee's retention is clearly consistent with the interests of the national security. Ibid. Applicants for critical sensitive positions must be subjected to full field investigations, and applicants for non-critical sensitive positions may be required to undergo full field investigations at the discretion of the relevant agency head. Federal Personnel Manual Ch. 736, Subchs. 1-4, 2-3(a). As this Court noted, "[T]he basic loyalty-security program of E.O. 10450 remains in place." 642 F. Supp. at 1399.

The effectiveness of the government's loyalty-security program rests in the first instance on investigations that are as thorough in their execution and accurate in their product

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as each situation warrants. Where the issuance or denial of a security clearance for access to classified information or equipment is in question, the public interest is best served when all information pertinent to the subject of an investigation is available so that the decision-making process is an informed one.* The obvious starting point for any investigation is information that the responsible agency has on hand or information available to it through a file search of other agencies, such as the National Agency Check. See 642 F. Supp. at 1396. That information, even though it may appear to be stale because of its date of acquisition and may not directly bear upon the ultimate security clearance determination, is important for the leads that it affords the investigator and for identifying questions requiring resolution through inquiry to other -- and ultimately contemporary -- sources of information. It is also important for assessing an individual's credibility and truthfulness: for example, whether a candidate for a security clearance admits or denies past SWP membership where information obtained through a surreptitious entry shows him to have been an

* The Supreme Court tacitly endorsed this position when it said, "[T]here is a reasonable basis for the view that an agency head who must bear the responsibility for the protection of classified information committed to his custody should have the final say in deciding whether to repose his trust in an employee who has access to such information." Cole v. Young, 351 U.S. 536, 546 (1956).

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active member in 1976 or earlier.* As this Court observed, "On these matters, the record before the court indicates that each case turns on its own individual facts, involving the attitude and conduct of the person, the nature of the service to be performed for the Government, the sensitivity of the information which the person will handle, and other factors." 642 F. Supp. at 1428.

Unless the Court permits the defendant agencies in emergency or exigent circumstances to make ex parte application to a federal court to permit use of the information concerning the plaintiffs obtained by the FBI, the decision whether or not an individual's access to sensitive or classified information "is clearly consistent with the interests of the national security," E.O. 10450 § 3(a), will be made on the basis of an investigation that is inherently not thorough. Where, as here under the proposed injunction, a body of information that is relevant to the investigative process and which may be relevant to the decision-maker in the ultimate determination of whether to issue or deny a security clearance is arbitrarily excluded from the entire process, the national security interests at stake are

* Even in a criminal case, the Government would be entitled to use illegally obtained information to impeach the false testimony of a defendant. E.g., Harris v. New York, 401 U.S. 222 (1971); Walder v. United States, 347 U.S. 62 (1954). The Government should be no worse off when assessing the credibility of an applicant for employment who will be entrusted with the most sensitive secrets of state.

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necessarily compromised.* As the Supreme Court has taught, however, the power to safeguard its vital interests should not be denied the Government. See United States v. Robel, supra.

Similar considerations apply to the responsibility of the FBI to make name check information available to the Department of Defense in connection with the latter's responsibilities for maintaining the industrial security program pursuant to Executive Order 10865, as amended by Executive Order 10909. The Department of Defense has an obvious interest in having all available information in order to conduct thorough background checks before issuing security clearances in connection with its industrial security program. That program affects private sector employees for whom a security clearance is required by virtue of their involvement in research, development,

It appears that the Court may not intend this result. Toward the end of its opinion it said:

Any indication that the SWP or YSA has a current program of carrying out violent revolution or acts of violence or terrorism would not reflect the presently known facts. This does not, of course, prevent legitimate inquiry about the actions and attitudes of an individual to the extent that they bear on relevant questions of loyalty and security.

642 F. Supp. at 1428. Nevertheless, the present and the past, particularly in individuals' lives, are inextricably linked in a continuum. The past illuminates the present. An order that excludes from consideration virtually all information obtained in a certain period perforce frustrates the accuracy of any determination regarding an individual's present circumstances.

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or production contracts for classified matters.* See Adams v. Laird, 420 F.2d 230 (D.C. Cir. 1969), cert. denied, 397 U.S. 1039 (1970), for a general outline of the operation of Executive Order 10865. See Smith v. Schlesinger, 513 F.2d 462, 465 n.1 (D.C. Cir. 1975), for citations to decisions concerning investigations and security clearance matters in the industrial security program. See also Gaver v. Schlesinger, 490 F.2d 740 (D.C. Cir. 1973), and Wolfson v. United States, 492 F.2d 1386 (Ct. Cl. 1974) (loss of security clearance and employment because of membership in Communist front organization and association with Communist Party sympathizers).

The Supreme Court has expressly recognized that the Government's interest in preventing espionage and sabotage in the Nation's defense plants is "not insubstantial." See United States v. Robel, 389 U.S. at 264. There the Supreme Court recognized the right of the government to deny access to its secrets to those who would use that information to harm the Nation.

We are not unmindful of the congressional concern over the danger of sabotage and espionage in national defense industries, and nothing we hold today should be read to deny Congress the power under narrowly drawn legislation to keep from sensitive positions in defense facilities those who would use their positions to disrupt the Nation's production facilities.

389 U.S. at 266-67. By the same token, agencies of the

* The court did not find any actionable conduct arising in the industrial security context. See 642 F. Supp. at 1427, last paragraph.

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Executive Branch should not ~~be denied~~ through court order the authority to conduct specific focused investigations based upon realistic national security concerns. See Alli-
ance to End Repression v. City of Chicago, 742 F.2d 1007, 1014-16 (7th Cir. 1984). The governmental interest in having valid and reliable lead information in this context to conduct an appropriate investigation is the same as that noted in connection with the federal employee loyalty and security program, supra.

In addition to the foregoing areas of responsibility, the Government has important interests in having timely access to FBI file information in a variety of special situations. Foremost among these in terms of sensitivity are verification of suitability for White House staff employment and the protection of the President and foreign dignitaries. See Declaration of Secret Service Special Agent Richard McCann and Declaration of FBI Special Agent Robert Scherrer. Similar interests of somewhat less sensitivity arise in connection with providing all available background information on law clerks and other employees of the United States courts who occupy positions of trust. Whether a particular SWP or YSA member is susceptible or responsive to the Fourth International and predisposed to carry the party's program into effect through unlawful means or to commit a violent act is a valid subject of inquiry. Again, party membership, although not determinative, is a starting point for inquiry to rule out the prospect of injury to recognized governmental interests in special

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situations. It raises questions about reliability and stability requiring resolution by the agency that has the responsibility for carrying out the governmental interests discussed above and reflected in the exhibits submitted with this memorandum. The responsibilities imposed by those interests are ongoing and inescapable.*

The foregoing considerations, particularly the criteria for expungement set forth in Paton, Chastain, and Hobson, dictate that no injunctive relief should be entered at all. See also pp. 21-22 infra. At the very least, relief should be drawn as narrowly as possible, and should allow for ad hoc use even of illegally obtained information where exigent circumstances warrant.

II. The Court's Proposed Order Presents Practical Problems in Implementation and Compliance

Insofar as it would bar the Government from using or disseminating information about the plaintiffs and their members that was obtained by the FBI by methods which the Court determines to be unlawful, the proposed order presents certain practical problems of compliance for the defendant agencies and their employees. These problems are indicated in the exhibits submitted with this memorandum. They exist apart from any provision for ex parte emergency relief that the Court might include pursuant to the considerations presented in Part I of this memorandum.

* An ironic feature of the proposed relief is that information governed by the proposed order, no matter how accurate and pertinent to an agency's mission, would not be available to the Government even though the same information would be available to Soviet intelligence services through the Freedom of Information Act. See 642 S. Supp. at 1432.

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earlier date of 1955 is appropriate because of this Court's finding that from the early 1950's onward the FBI's investigation was a national security investigation. However, that fact did not of itself make the investigation or the techniques used in it illegal -- the FBI was and is authorized to conduct such investigations. The Government respectfully submits that the cutoff date suggested by the court is more reasonable than that proposed by plaintiffs.*

CONCLUSION

The governmental interests and responsibilities discussed above and reflected in the exhibits submitted with this memorandum are legitimate, substantial and important. They merit this Court's protection. While the Government urges that no injunctive relief whatever should be granted, in the context of the Court's proposed injunctive relief some protection is effectuated by including in any order a provision such as that set forth in Paragraph 3 of the defendants' proposed order which will permit any affected agency of the Government in exigent or emergency circumstances to apply ex parte to any federal court for an order permitting use, disclosure, or dissemination of

* We reiterate that nothing in this memorandum should be construed as consent by the Government to the entry of any injunction, or to any particular terms of the injunction the Court intends to enter. The Government continues to maintain that no injunction at all is warranted by the record in this case or by law.

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information otherwise barred from use, dissemination, or disclosure by other provisions of the order for injunctive relief.

Dated: New York, New York

March 6, 1987

Respectfully submitted,

RUDOLPH W. GIULIANI
United States Attorney for the
Southern District of New York
Attorney for Defendants

By: 

PETER C. SALERNO
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One St. Andrew's Plaza
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Of Counsel:

RICHARD K. WILLARD
Assistant Attorney General

JOHN J. FARLEY, III
Director, Civil Division
Torts Branch

GORDON W. DAIGER
Attorney, Civil Division
Torts Branch
U.S. Department of Justice

Exhibit C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY,

Plaintiff,

v.

THE ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Defendants.

No. 73 Civ. 3160

AFFIDAVIT OF GARY B. McDANIEL
OF THE OFFICE OF PERSONNEL MANAGEMENT

Gary B. McDaniel, being duly sworn, states as follows:

1. I am the Chief of the Investigations Operations Division, Office of Federal Investigations (OFI), U.S. Office of Personnel Management (OPM). In that position, I have oversight responsibility for the performance of the personnel background investigations done nationwide by OPM, including the assembly and transmittal of the final product to the customer agency. I have served as Chief of the Investigations Operations Division since June 1984, and I have worked in the area of personnel investigations, both for OPM and its predecessor, the U.S. Civil Service Commission, for a total of about ten years. The statements made herein are based upon knowledge and belief obtained in the course of performing the official duties assigned to me by OPM.

2. OPM's OFI conducts approximately 250,000 background checks or investigations each year on individuals who are applicants for or holders of positions in the United States Government or Government contractors. Approximately 150,000 of these are on individuals who will have access to sensitive classified information, materials, or sites. All of these latter investigations are done under authority of Executive Order 10450 and the Atomic Energy Act of 1954. Both the Order and the Act require that persons who will be granted such access be, among other things, loyal to the United States and its democratic system of Government.

3. OPM does not itself grant security access clearances (except to its own employees) but, rather, conducts a variety of background investigations on a reimbursable basis as a service to almost all Executive branch departments and agencies except for the Department of Defense and some other investigative agencies. These customer agencies grant or deny security clearances based largely on the reports of investigation furnished by OPM. To provide an adequate investigation upon which such critical decisions can be made, OPM must have access to as much information as possible. This is necessary to present a complete picture of each individual investigated as to their suitability, reliability and loyalty. Among OFI's sources of information are the various investigative and intelligence agencies of the United States, including the Federal Bureau of Investigation (FBI).

4. Mere membership in the Socialist Workers Party (SWP) or the Young Socialist Alliance (YSA) would not, in and of itself, be an issue under E.O. 10450 or be the final determinant in the granting or denying of a security clearance. The information is, however, a lead that OPM must fully address and resolve through its investigation. Such factors as the extent of involvement, the recency of it, whether such involvement was with full knowledge of the intents and aims of the organization and, if the person is no longer a member, the nature and extent of the person's activities since being a member, all must be considered when making a security clearance adjudication. Consequently, OPM's investigation cannot consist only of a fact of membership but must delve into all these other aspects to present as complete and accurate a report as is possible. Access to the information thus permits OPM to conduct the investigation in such a manner to assure that all relevant facts, including favorable or mitigating information, are included in the report and are considered by the agency making the security determination.

5. Either OFI or the customer agency which receives OFI's report of investigation does a subject interview in almost all cases. During this interview, individuals being investigated are made aware of the information developed and afforded the opportunity to explain, refute, or make a statement regarding the information. All such responses are made a part of the investigative file. In addition, OPM's investigative files are

rigorously safeguarded from unwarranted disclosure, and the subjects of OFI investigatory records have the protections of the Privacy Act and the Freedom of Information Act.

6. If OFI were denied access to, or could not use, information on membership in the SWP or the YSA obtained by the Federal Bureau of Investigation between July 1, 1955 and September 1976, either now in OFI files or gained in the future from FBI name checks, the OFI investigation and the customer agencies' security programs could be seriously compromised. OFI considers this information important because these organizations in the past were opposed to our form of Government and the national interest. A person who successfully conceals such membership or activities and seeks security access for purposes inimical to the national interests or security could gain such access and be in a position to do extreme damage to the United States. The access in question could include classified defense information and nuclear weapons materials and sites.

7. Any information obtained from the FBI through a name check request, including information on SWP or YSA membership, becomes part of the file on the particular individual involved. All files are maintained, either as hard copy or on microfilm, in secure, locked storage with access limited only to authorized personnel. Release of these files is governed by and in accordance with established security procedures and law. Since the information in question is maintained by individual file, it

is not accessible by subject matter. Any effort to retrieve information specifically concerning the SWP or YSA could only be done by retrieving and reviewing each and every one of the over four and one-half million files currently in the system. No files are maintained concerning the SWP or YSA per se.


Gary B. McDaniel

Subscribed and sworn to before me this 4th of March, 1987, in the City of Washington, District of Columbia.


Notary Public

My Commission expires: 3-31-89

Exhibit D

**Socialist Workers
Party, et al,**

v.

Defendant.

Civil Action No. 73-CIV-3160 (TPG)

2. I have been advised that the court intends to enter an injunction that would bar the Government from using or disseminating information regarding the Socialist Workers Party (SWP) and its members that was obtained by the Federal Bureau of Investigation (FBI) in its investigation of the SWP through methods that the court has determined

to be unlawful. I understand that the information that will be subject to the injunction will, in effect, include nearly all information that the FBI obtained about the SWP and its members during its investigation until it was terminated in September, 1976.

3. The Bureau of Diplomatic Security does not maintain a subject file on the Socialist Workers Party in our records system. However, two offices within the Bureau of Diplomatic Security (DS) do perform security functions for the Department of State involving information review that may include information from the FBI and other sources relating to the Socialist Workers Party. Those DS components are the Office of Investigations (DS/I) and the Threat Analysis Division (DS/TAD) within the Office of Policy Coordination (DS/P). Both offices assert their need for continued access, maintenance and use of information that may relate to the Socialist Workers Party obtained from the FBI or other sources in connection with a specific investigation or threat inquiry.

4. DS/I is responsible for granting security clearances for employment in the Department of State and the Foreign Service. Executive Order 10450 dated April 27, 1953, as amended, requires that a sensitive position "be filled or occupied only by a person with respect to whom a full field investigation has been conducted." A thorough investigation is essential to ensure that only persons of demonstrated loyalty and trustworthiness fill these sensitive positions at home and abroad. Foreign Service employees in particular spend the majority of their professional careers posted overseas; they are subject to more opportunity for hostile intelligence development and to an environment

offering reduced constraints against improper activities. Certainly any information about the activity of an applicant or encumbent which includes interaction with a group advancing a hostile ideology would be relevant to a security clearance determination under E.O. 10450. Although mere membership in an organization itself would not automatically preclude a clearance, it would be weighed with other significant factors.

5. DS is responsible for making informed decisions and therefore has the obligation to avail itself of any such information developed by the FBI or other sources. Even though this information may be 10 to 30 years old, this does not make it stale for investigative purposes; it may indeed be extremely relevant to current investigations. The integrity of the process requires that all possible information be available in order to reach an informed determination. This integrity is necessarily compromised if useful or relevant information is excluded. Failure to obtain this significant information would risk granting clearances to applicants or encumbents who could act to affect adversely the security of the United States.

6. The mission of DS/P/TAD is to evaluate threats to our diplomats and other Americans abroad as well to as analyze potential threats to those visiting foreign dignitaries who might need U.S. Government protection. In carrying out these responsibilities, it is imperative that TAD has access to information or resources that could even remotely impact on the health or safety of their charges. This holds true of any group, regardless of its ideological perspective. To prohibit access to

information about any hostile organization which has consistently posed a threat to free governments, would inhibit TAD from fulfilling its critical role as well as establish an adverse precedent concerning the flow and use of essential information.

I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed

**Roger H. Robinson, Acting
Deputy Assistant Secretary
Diplomatic Security Service
Bureau of Diplomatic Security**

Exhibit E

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY,

Plaintiff,

v.

THE ATTORNEY GENERAL OF THE
UNITED STATES, et al.,

Defendants.

No. 73-CIV-3160-TPG

DECLARATION OF EDWIN W. DORNELL
ACTING ASSISTANT COMMISSIONER
IMMIGRATION AND NATURALIZATION SERVICE

I, EDWIN W. DORNELL, state as follows:

1. I was appointed as Acting Assistant Commissioner for Intelligence, Office of Enforcement, Immigration and Naturalization Service on January 5, 1987.

2. I have been an immigration officer for 18 years.

3. In my position as Acting Assistant Commissioner, I am responsible for the supervising and policy direction of the INS intelligence gathering function.

4. I have been advised that the Court is considering an injunction in the above case that would bar the FBI from providing information to the INS about the Socialist Workers Party and its members that was gathered by surreptitious entry and informants between 1948 and 1976. I am also advised that under the injunction, INS would be barred from using any derivative information gathered from the above means.

5. INS is entitled to gather information and make determinations about individuals pursuant to 8 U.S.C. and

1182(a)(28)(D) and (F), 8 U.S.C. and 1251(a)(6)(D) and 8 U.S.C. and 1424(a)(3). Further, criminal authority exists to prosecute certain of these cases under 8 U.S.C. 1327. These sections govern whether or not an individual who advocates world communism or the establishment of totalitarian dictatorship can be deported, excluded or naturalized. The new Immigration Reform and Control Act also denies legalization to individuals who espouse the above aims.

6. The inability to receive information from the FBI regarding membership in the Socialist Workers Party during the proposed time period could adversely affect the ability of INS to make informed decisions about an individual's political views. Although membership in the Socialist Workers Party would not alone result in any change to one's immigration status, it is certainly a factor that would need to be examined in accordance with our statutory mandate. Failure to have the information could impact on our ability to properly determine an individual's proper immigration status.

7. INS maintains a file in its central index that contains information about the Socialist Workers Party from 1948 to 1976. The information is segregated from other files. There are approximately 25 folders containing information about the Socialist Workers Party. It is not cross referenced by individual names, and it only contains general information. To my knowledge, the information is at most background information and is not used in any particular case. Most of the information in the file is compiled from and consists of FBI reports. There

is no information in the file after April 30, 1976. There are no indicia of the means by which the FBI gathered the information in the files.

8. To my knowledge, INS maintained no specific file after that date regarding the Socialist Workers Party. I have checked with our office of Investigations, and they advise me that they also do not keep a file on the Socialist Workers Party. The same is true for our offices of Adjudications and Inspections.

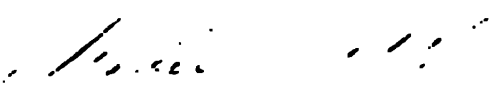
9. INS gathers information about individuals on a case-by-case basis. Files are set up by individual name and case number. There is no other way of determining what is in the file.

10. There is no way INS can go through its tens of millions files developed since 1945 to determine if any of the information in the SWP file is in individual files. Information can only be checked by name, date of birth or by file number. INS would have no way of knowing whether or not there is any information about the SWP or YSA activities obtained from the FBI in individual files.

11. If INS was to initiate a new case, it would go to various investigative agencies to check on an individual's status. It would not rely on our segregated file on the SWP. Thus, for example, if there was information that the INS could not receive from the FBI because of the means in which it was obtained by the FBI, it would be deprived of the information.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 3, 1987.



EDWIN W. DORNELL
Acting Assistant Commissioner
for Intelligence
Immigration and Naturalization
Service

Exhibit F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOCIALIST WORKERS PARTY, et al.,)	
)	
Plaintiffs)	
)	73 Civ 3160 (TPG)
-against-)	
)	
ATTORNEY GENERAL OF THE UNITED)	
STATES, et al.,)	
)	
Defendants)	

DEFENSE INVESTIGATIVE SERVICE AFFIDAVIT IN SUPPORT
OF DEFENDANTS' MEMORANDUM ON PROPOSED ORDER OF
INJUNCTIVE RELIEF

I, Thomas J. O'Brien, do hereby state and declare:

1. I am currently the Director of The Defense Investigative Service (DIS), Department of Defense (DoD). I have held this position since August 1981.

2. In my position I am knowledgeable of the DIS personnel security investigative mission, including the authority for and the scope of these investigations.

3. The authority for DIS to conduct Personnel Security Investigations (PSI) is found in Executive Orders and directives. Executive Order 10450 (April 29, 1953) governs the conduct of PSI's on Federal civilian employees. It also provides for the acceptance and retention of civilian employees in the Federal government. Executive Order 10865, (February 23, 1960), as amended by Executive Order 10909, (January 18, 1961), governs investigations of industrial personnel who require access to classified information. The conduct of PSI's on members of the armed services is governed by DoD Directive 5200.2, "Department of Defense Personnel Security Program" (December 20, 1979). Director of Central Intelligence Directive No. 1/14 (April 14, 1986) governs investigations of persons who require access to sensitive compartmented information. It provides for an investigation which encompasses a 15 year period of time.

4. Executive Order 10450, section 8(a)(5), provides that

Membership in, or affiliation or sympathetic association with, any foreign or domestic organization, association, movement, group or combination of persons which is totalitarian, Fascist, Communist, or subversive, or which has adopted, or shows a policy of advocating or approving the commission of acts of force or violence to deny other persons their rights under the Constitution of the United States, or which seeks to alter the form of government of the United States by unconstitutional means

is of security significance.

5. Within the DoD these national security policy mandates are implemented by DoD 5200.2-R, "Department of Defense Personnel Security Program," which provides DIS with investigative jurisdiction over this issue for personnel security purposes.

6. In the course of conducting PSI's the DIS routinely requests that the Federal Bureau of Investigation (FBI) review its files for information pertaining to the subject of our investigations. These records checks may, among other things, disclose that the subject of a DIS investigation has been affiliated with an organization characterized by Executive Order 10450.

7. The information obtained from the FBI may serve to corroborate or establish an affiliation with such an organization. However, the membership in such an organization, per se, is not the security concern. Rather the establishment of this affiliation provides a basis for expanding the investigation.

8. Because DIS files are not organized, segregated, indexed, or retrievable by political party affiliation it is virtually impossible to assess the quantitative value of this FBI information. However, this information is valuable because it is otherwise unavailable since investigative subjects may not disclose their affiliation on their personnel security forms.

9. Without access to this information the DIS will lose a valuable source of investigative leads, and may be hindered in its efforts to further its investigative mission. In addition, when evaluating this information for its investigative purposes the DIS is and would be unable to determine the manner in which the FBI obtained it.

I declare under penalty of perjury that the foregoing is true and correct.

Executed this 5th day of March 1987 at Washington, D.C.

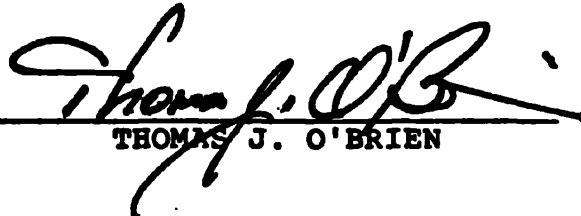

THOMAS J. O'BRIEN

Exhibit G

Baker & Associates expands security work on worldwide basis

After nearly a decade and a half in the domestic market, E. Gary Baker is expanding his security services firm for a bigger share of the world market.

"Two years ago, we made the decision to do a little more in the security officer area," said the founder and chairman of Baker & Associates in Omaha. "For years we had been doing background information and psychological and personnel testing for guard and law enforcement agencies.

"One of the problems in the industry, however, is the low pay. Companies are taking applications from people off the street and putting a badge and a gun on them; Nebraska has no licensing for such people and that makes it even worse."

Baker had been providing guard service for one of his clients, with highly-paid security guards in a corporate office. He decided to expand that service; consequently, he made a bid on guard services for the U.S. Embassy in Ireland and succeeded in winning it in negotiation. The contract amounts to about half a million dollars a year and has since been renewed, he said.

"Normally, the federal bids are let annually," said Baker. "If you do a good job, you're usually locked in and they often lead to additional contracts."

Which isn't all that easy; each project takes some in-country research, he said, and to even make a bid requires prior authorization from that country's government. "It can be very costly because you have to establish yourself as viable and operating in that country...just to bid on one terrific contract."

Baker already has investigative services established in Sri Lanka, Luxembourg, Guatemala and Costa Rica, servicing U.S. clients doing business there in preparation for bids on government work. Baker & Associates has also established a partnership with the largest security and armored car firm in Italy. ("Our expertise in investigative protection and security consultation; theirs in manpower," he said.)

Baker sees an opportunity for dramatic expansion in Europe in the next few years. In 1992, the European Economic Community (EEC), or "Common Market", will eliminate tariffs between member nations. "I suspect we'll see a ten-fold increase because of it, which is why we're dealing so strongly in Europe now," he said. "It will be like a United States of Europe with a free flow of goods and services; with trade barriers eliminated, there will be a natural growth in services."

Baker said country to country expansion in services has been hampered by licensing restrictions imposed by each country; the new law will take the licensing barriers down and replace them with common contractual law, he said, not unlike the U.S.

Because of the firm's decision to branch out overseas, Baker has brought on three new directors — Marvin Garrett Jr., Victor Dikens and M. Edward Stewart — and an operations official formerly of the State Department. John Swinford was a 23-year veteran with the department who developed policy guidelines and programs for U.S. Embassies.

Garrett is currently the director of security for international travel for the President's Commission on Executive Exchange at the White House. Dikens was the former executive secretary and member of the secretary of state's advisory panel on overseas security. Stewart, who is also Baker's chief financial officer, held several management positions with major U.S. corporations.

"Dikens and Garrett designed the protection of diplomatic security service as it relates to embassies and individuals," Baker said. "I'm damn lucky to get those guys."

Baker said part of his business has grown to include services for clients traveling to overseas markets, particularly to the EEC. The company gives travel briefings on potential hazards in each country, along with names of officials to contact in each country in the event of a problem.

Something he said he tells all clients is avoid any U.S. air carrier on the return trip. "There's no problem with a U.S.-originated flight, but I won't fly any American airline home," he said. "The risk (from terrorist attack) increases after the first overseas stop, particularly in areas with a large concentration of U.S. servicemen."

Business has also expanded on the domestic scene, said Baker. His firm performs consulting service in labor disputes, along with litigation support and services for attorneys and asset protection.

"We teach companies (affected by labor disputes) how to improve their security," he said. "We know what will probably happen in such a dispute, as the tactics of organized labor are pretty similar, from picket line problems and lulls in activity to rallies, stoppages and assaults."

His firm provides documentation of unfair labor practices in strike violations and violence, and will go so far as to investigate sabotage incidents like product contamination and arson.

Baker said the work in labor disputes has enabled his firm to compile an extensive data base and information index on violent domestic organizations and communist and Marxist groups...information which he said isn't that difficult to compile.

"A lot of it is available publicly, from local newspapers and periodicals," he said. "The local union involved in the strikes against Hormel was absolutely infiltrated by the Socialist Workers Party, which is largely Marxist/Leninist. We have listings for every left-wing and fringe group; every time there's a rally, these people show up."

Baker said his company started tracking the groups following the strikes against Hormel, compiling names and photographs of agitators. "We were involved in another labor dispute in Milwaukee and the same people showed up, demonstrating that these people move around the country quite a bit," he said. "We later had a case in Omaha involving the sabotage of products...we were looking at a list of employees when several names rang a bell. We checked our index and found that all involved were with the Socialist Workers Party; some had totally falsified their applications with the company. One was an autoworker from California and another was a radical from Alabama; their sole purpose, in my opinion, was to infiltrate the company and cause problems."

Baker said every company should investigate employees before hiring them permanently. Firms can no longer give polygraph tests, but can make drug screenings; they can also check police records from the previous 10 years, he said.

"A small company has more to lose than a large one from hiring a bad employee," he said. "Hiring a thief can be devastating."

Exhibit H

The Militant, June 16, 1989

Hormel company spying unmasked

At labor board hearings, fired unionist tells of harassment

BY CHRIS HOEPPNER

FREMONT, Neb. — Recent National Labor Relations Board hearings held here in the case of fired packinghouse worker Bob Langemeier have revealed systematic spying on union activists by Geo. A. Hormel & Co. The secret surveillance included spying on the Langemeier's home, videotaping a union rally, and secretly taping a forum that was held at the Pathfinder Bookstore in Des Moines, Iowa, on the struggle of meat-packing workers.

The evidence of company spying was presented in eight days of hearings held as a result of charges brought by the NLRB against Hormel for its firing of Langemeier for protected union activity. Langemeier had worked at the Hormel plant here for more than 21 years at the time of his last firing in May 1987. The hearings ended March 17.

The roots of Langemeier's case go back several years to the 1985-86 strike by United Food and Commercial Workers Local P-9 at the Hormel plant in Austin, Minnesota. P-9 members were fighting for a new contract that would restore wages and benefits cut drastically by the company the previous year.

In an effort to broaden support for their strike after the National Guard was called out against them in January 1986, Local P-9 immediately initiated a national boycott of Hormel products. They also sent roving pickets to other Hormel plants, including one in Ottumwa, Iowa, and the one here in Fremont.

In Fremont, the company "permanently replaced" 27 workers who honored the picket lines — including Langemeier — on

the grounds that they were "sympathetic strikers." In July 1987 Hormel was forced to recall 11 of the workers. Langemeier — who had been fired the previous May for alleged "boycott activity" — was not recalled. The NLRB upheld his claim that he had been fired for union activity.

Systematic harassment

During the March hearings, Langemeier detailed the systematic harassment he was subjected to by Hormel.

In June 1985, he recalled, he was forced to remove a "P-9 Proud" sticker from his hat. Plant personnel manager Ken Young repeatedly took down union material posted by Langemeier on the union's section of the plant bulletin board. In December 1985 he was fired for wearing a "P-9 Proud" sticker — even though, as UFCW Local 22 President Skip Niederdippe testified, he had removed it.

Langemeier was offered his job back in February 1986. Local P-9 had set up picket lines at the plant in January, however, and he refused to cross. He was later put on a "preferential hiring list."

Langemeier explained to the hearing how he had been inspired by Local P-9's power, and by the democratic organization and mobilization of its ranks. He detailed the union activities he took part in to build support for the embattled Austin workers, including speaking to many union locals and participating in a trip to Britain. It was for these activities, Langemeier pointed out, that he was fired, not for supporting the boycott, which he testified he didn't con-

sider to be very effective — that was simply a pretext, he said.

Wearing a red ribbon to show support for Machinists currently on strike at Eastern Airlines, Lois Langemeier also testified. She was a founder of the prounion Fremont United Support Group and is Langemeier's wife. The vehicles cited by Hormel as hav-

Company spied on Langemeier home.

ing "Boycott Hormel" stickers on them were either owned by her, or jointly owned with her husband, she said.

She explained that she did feel the boycott was effective, and that's why she put the stickers on, adding, "Hormel doesn't own me."

Hormel's antiuminium spies

Hormel's response to the NLRB charges revealed that the company used finks and hired private investigators to spy on Langemeier, his family, and other workers.

Two members of UFCW Local 22 testified for the company. Local executive board member Jerry Rosenthal told the hearing that Langemeier gave him a flyer on Local P-9's fight after a union meeting in June 1987.

Mark Scott Braun testified that he informed the plant personnel manager that he saw Lois Langemeier put a "Boycott Hormel" sticker on the shelf of a local supermarket.

Hornel personnel manager Young testified that he fired Langemeier for "boycott activity," which included:

- Distribution of a flier entitled "Don't Vote Away Your Jobs," which discussed contract and safety issues;
- Having a "Boycott Hornel" sticker on his truck at a union meeting;
- Participation in a trip to Britain with meat-packers from UFCW Local P-9 and elsewhere to win support from British mine workers and Labour Party activists for the fight against Hornel;
- Being a speaker along with other labor activists at a Militant Labor Forum on the fight against the meat-packing bosses' offensive, held in Des Moines February 1987; and
- Participating in a march and rally for the Hornel strikers in Austin in March 1987.

In his testimony, Young cited Langemeier's refusal to take out an ad in the local paper dissociating himself from the Hornel boycott as evidence of the unionist's support for it.

He also produced photos — including one of a "Boycott Hornel" sticker on a truck — of Langemeier's home and vehicles.

Spying from dumpster

Two private investigators were called by the company to testify against Langemeier. One, from Baker & Associates, Inc., testified that he was hired by Hornel to videotape a parade and rally in Austin on March 14, 1987. The videos were used by Hornel to finger union activists participating in the events.

The other private cop told the hearing that he was hired to spy on the meat-packers' forum held in Des Moines.

He took down license plate numbers of cars parked in the area to give to Hornel, he said. In addition, he went around to the alley in back of the building and stood in a trash dumpster for some two hours while

recording Langemeier's speech through a vent in the back wall.

The tape recording was not produced, but the spy told the hearing that Langemeier's speech indicated support for the boycott, and for a "slowdown" if he got his job back. This testimony was refuted by Peter Bucy, a meat-packer and farmer who was present at the forum.

Attorneys' briefs are scheduled to be submitted to the judge by June 21, 1989. A decision in Langemeier's case will follow sometime after that.

Exhibit I

The Militant, March 31, 1989

Hearings reveal Hormel spied on Nebraska union activist

BY DIANE SHUR

OMAHA, Nebraska — Current National Labor Relations Board (NLRB) hearings have revealed that Geo. A. Hormel & Co. has spent the last four years spying on and harassing union activist Bob Langemeier.

Langemeier used to work at Hormel's meat-packing plant in Fremont, Nebraska. He was fired in 1985 for wearing a sticker on his hat indicating support for workers then on strike at Hormel's Austin, Minnesota, plant. The strikers were members of United Food and Commercial Workers Local P-9.

When Langemeier was reinstated at his job, strikers from Local P-9 were picketing the Fremont plant. Langemeier, and others, refused to cross the picket line, and he

was fired again.

Langemeier fought to regain his job, and the company finally agreed to put his name at the top of a preferential hiring list. But he was not rehired.

In February 1988 Hormel began sending Langemeier letters in which the company made clear its intention to remove him from the hiring list because of his support for a boycott of Hormel products. The boycott was begun by Local P-9 to aid the strike in Austin. One letter demanded that he take out full-page newspaper ads to renounce the Hormel boycott.

Last June — when he had still not met the company's demands — Langemeier was removed from the hiring list. He ap-

pealed the company's action through the NLRB.

In preparation for the hearings on his case, which began at the end of January, the NLRB told Langemeier about some of the evidence the company was introducing against him. Included was testimony by an employee of Baker & Associates, which had been engaged by Hormel to spy on him. Baker is a notorious union-busting outfit based here in Omaha. Langemeier was also informed that Hormel had numerous videotapes of his activities.

In January Langemeier and his wife Lois were served subpoenas by Hormel attorneys requiring them to supply massive amounts of documents to the company for the next round of hearings. The subpoenas show that Hormel is on a fishing expedition to try to find "damaging" evidence in the Langemeiers' union solidarity activities. They are demanding access to bank records, passports, drafts of speeches, and leaflets put out by various strike support committees.

The subpoenas mention specific activities Langemeier participated in, including strike support rallies in Austin; a Militant Labor Forum in Des Moines, Iowa; and the grand opening of the Pathfinder Bookstore in Omaha. Hormel seems especially interested in a trip Langemeier made



Bob Langemeier

Militant/Holbrook Main

to Britain in 1986 to meet with members of the coal miners' union and British Labour Party.

"My right to privacy, my right to free speech, and my right to travel and associate with whomever I want are being violated," said Langemeier recently. "The bosses travel and meet and spend money to break strikes all the time. Wealthy people have their associations and contacts to help them advance their careers and business interests. But when working-class people get together in solidarity it is presented as criminal activity."

Exhibit J

NATIONAL LABOR RELATIONS BOARD

**Case No. 17-CA-12789 17-CA-12828
 17-CA-13428 17-CA-13428-2**

In the Matter of:

GEO. A. HORMEL & COMPANY,

Respondent,

and

ROBERT W. LANGEMEIER, an Individual,

and

**UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL UNION
NO. 22,**

Charging Party.

Pages: 823 - 1094

Place: Fremont, Nebraska

Date: March 14, 1989

Argie Reporting Service

**2000 W. 70th Terr.
Kansas City, MO 64113
(816) 363-3657**

1 Whereupon,

2 KENNETH E. YOUNG

3 was called as a witness herein, and, having
4 been first duly sworn, was examined and
5 testified as follows:

6 DIRECT EXAMINATION

7 BY MR. LOEFFLER:

8 Q. Would you state your name, please?

9 A. My name is Kenneth E. Young.

10 Q. And where do you live, sir?

11 A. I live here in Fremont, Nebraska, on
12 2220 Gaph (phonetic) Street.

13 Q. And by whom are you employed?

14 A. Employed by the George A. Hormel &
15 Company here in Fremont.

16 Q. In what capacity?

17 A. I'm the personnel manager here at the
18 Fremont plant.

19 Q. Okay. Could you tell Judge Romano what
20 the duties of the personnel manager are?

21 A. There are several in this plant. I'm
22 the fellow that does the interviewing, hiring
23 of our plant workers, and also fill in on
24 recruiting of exempt employees. I oversee our
25 first aid function. I oversee our insurance

1 Q. Just tell us who Chuck Clemens is.

2 A. Okay. Chuck Clemens is a private
3 investigator who was employed by the
4 employment manager at the Ottumwa, Iowa,
5 plant.

6 Q. Whose name is?

7 A. Whose name is Mike Maclean.

8 Q. At that time he was in Ottumwa?

9 A. That's correct.

10 Q. Okay. And who reported to you about
11 some activities of Mr. Langemeier observed by
12 Clemens?

13 A. I got reports from several people. I
14 believe my plant manager, Jim Jorgenson, was
15 one that said that there has been some
16 information come back to us by virtue of Mr.
17 Clemens, who had a meeting in Des Moines where
18 Bobby Langemeier spoke and addressed a
19 gathering over there.

20 Q. And what was it he was saying?

21 MR. CHAPIN: Objection. Hearsay.

22 MR. LOEFFLER: Well, we're not offering
23 to prove the matter asserted. We're getting
24 now to what data he had when he issued this
25 letter of March 25th.

1 JUDGE ROMANO: All right. Stop. You're
2 not expecting me to ever make a finding that
3 Mr. Langemeier actually made any such
4 statements attributed to him?

5 MR. LOEFFLER: Oh, yes, I am. But not
6 on the basis of this man's testimony.

7 JUDGE ROMANO: Well --

8 MR. LOEFFLER: Just a minute, please.
9 What I'm saying is I'm accounting for his
10 letter of March 25th. He had certain data
11 come into him and on the basis of that data he
12 asked Langemeier to come in.

13 JUDGE ROMANO: All right. I'll take it
14 for that purpose but I'm not going to use it
15 subsequently to support a finding that Mr.
16 Langemeier did make any such statements that
17 are attributed to him. If you want that
18 finding, bring the individual in who heard
19 him.

20 MR. LOEFFLER: Well, we're going to do
21 that. There's no question we're going to do
22 that. And as I said, when he objected on the
23 grounds of hearsay, I'm not at this point in
24 time offering it for the truth of the matter
25 asserted.

1 JUDGE ROMANO: I'll take it.

2 BY MR. LOEFFLER:

3 Q. So what was it that Langemeier was
4 supposed to have said in Des Moines?

5 A. Well, in addition to his support of the
6 boycott, we also had information come back
7 that we were really, I guess, upset about.

8 JUDGE ROMANO: Excuse me. But I think I
9 really -- this is the kind of stuff that gives
10 me awful difficulties later on in evaluating
11 testimony. Can you at all tell me in terms of
12 what Mr. Jorgenson, is it, who is reporting to
13 you?

14 THE WITNESS: I'm saying Mr. Jorgenson
15 give me some information about that --

16 JUDGE ROMANO: That was reported to him?

17 THE WITNESS: Yes.

18 JUDGE ROMANO: By Mr. Clemens?

19 THE WITNESS: No. No.

20 JUDGE ROMANO: Well, then straighten me
21 out.

22 THE WITNESS: It came by way of Mr.
23 Maclean and the management group in Ottumwa.
24 They had hired Clemens for the purpose of the
25 people who were there from Ottumwa. They

NATIONAL LABOR RELATIONS BOARD

Case No. 17-CA-12789 17-CA-12828
 17-CA-13428 17-CA-13428-2

In the Matter of:

GEO. A. HORNEL & COMPANY,

Respondent,

and

ROBERT W. LANGEMEIER, an individual,

and

UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL UNION
NO. 22,

Charging Party.

Pages: 1095 - 1330

Place: Fremont, Nebraska

Date: March 15, 1989

Argie Reporting Service

1000 W. 70th Terr.
Kansas City, MO 64113
(816) 363-3657

1 A. Okay.

2 Q. I want to go back to your --

3 JUDGE ROMANO: 1B (c) Counsel?

4 MR. LOEFFLER: Is it 1B (c)?

5 JUDGE ROMANO: You know, I said earlier,

6 Nebraska laws tract the Federal Laws. Maybe, the

7 Federal Law tracts the Nebraska Law, I don't

8 know.

9 BY MR. LOEFFLER:

10 Q. What was marked for identification as General

11 Counsel Exhibit 1B (c) -- that's your March 25th

12 letter, where you have some data about his

13 boycotting activity. When you testified to what

14 information you had, your possession at the time

15 you sent that letter.

16 A. That's correct.

17 Q. Is there any other letter?

18 A. Yeah, there was one other piece of data

19 that was probably, the most recent -- previous to

20 this letter. And that was Bob Langemeier's trip

21 to Austin, Minnesota, to attend the Boycott

22 Hormel Parade and rally, on March 14 of that

23 year. March 14, 1987.

24 Q. And how did you know about that?

25 A. Well it was pretty well publicized. There

1 were fliers out about that. The vent of the P-9
2 struggle had taken really a turn --

3 Q. How did you know that Mr. Langemeier was
4 there?

5 A. I was informed that he was going to attend
6 that rally. Somebody from the plant told me. I
7 don't recall who it was, but --

8 Q. How did you know that in fact, he was
9 there?

10 A. I knew, in fact, that he was there, because
11 we have video tapes of the parade. I identified
12 he and his car. We have video tapes of the
13 rally. He was recognized from the podium, by
14 Cecil Cain, who was the MC of that boycott
15 rally.

16 Q. Coming up to the meeting of April 6. There
17 was some interchange about who was going to be in
18 attendance. And you said, "Well, it's okay for
19 Nutzman and Thurlow to be there. Mr. Niederdeppe
20 is there." Then what happened at that point?
21 You've got the players lined up --

22 A. After we settled that issue, about who was
23 going to attend, Mr. Langemeier produced a
24 tape recorder, and insisted that the proceedings
25 be tape recorded.

NATIONAL LABOR RELATIONS BOARD

**Case No. 17-CA-12789 17-CA-12828
 17-CA-13428 17-CA-13428-2**

In the Matter of:

GEO. A. NORMEL & COMPANY,

Respondent,

and

ROBERT W. LANGEMEIER, an Individual,

and

**UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL UNION
NO. 22,**

Charging Party.

Pages: 1331 - 1466

Place: Fremont, Nebraska

Date: March 16, 1989

Argie Reporting Service

**2000 W. 70th Terr.
Kansas City, MO 64113
(816) 363-3657**

P R O C E E D I N G S

JUDGE ROMANO: On the record. First we have to have you sworn. Would you just stand for one moment and raise your right hand? Whereupon,

DAVID UDEN

was called as a witness herein, and, having been first duly sworn, was examined and testified as follows:

JUDGE ROMANO: Be seated.

MR. WILLIAMS: My name is David Uden.

DIRECT EXAMINATION

BY MR. LOEFFLER:

Q. And by whom are you employed?

A. Baker and Associates of Omaha.

Q. And please describe to the judge what business Baker and Associates is?

A. We are a security consulting and investigative firm.

Q. Okay. And could you elaborate on that a bit?

A. We conduct private investigations. We market psychological testing. We do some limited polygraph examination. We do background clearances for the nuclear industry. The security

1 consulting division is managed by Mr. Baker and
2 that basically involves go into the job site and
3 giving clients advice on how to deal with various
4 problems they're experiencing.

5 Q. And for what period of time have you been
6 employed by Baker and Associates?

7 A. I began working as an independent
8 contractor associated with Baker and Associates in
9 about August of 1981.

10 Q. And you're presently an employee?

11 A. I am an employee at this time.

12 Q. Okay. I'm going to show you what's been
13 marked for identification as Respondent's Exhibit
14 1B, and ask whether you're familiar with that
15 photograph?

16 A. Yes, I am.

17 Q. How is it you're familiar with it?

18 A. I took this photograph.

19 Q. All right.

20 MR. LOEFFLER: I'll move R-1B into
21 evidence.

22 JUDGE ROMANO: Of these -- would you look
23 on the back of R-1B?

24 MR. LOEFFLER: Yes, Your Honor.

25 JUDGE ROMANO: Do you know whose

1 21 are received. Well, they're already received.
2 They are now authenticated.

3 (The documents above-
4 referred to, heretofore
5 marked Respondent Exhibits
6 R-19 through R-21, were
7 received into evidence.)

8 BY MR. LOEFFLER:

9 Q. Okay. Was there a time when you
10 photographed -- or videotaped some activities in
11 Austin, Minnesota?

12 A. Yes, sir.

13 Q. Tell us how you came to be engaged in that
14 activity.

15 A. There was actually two times.

16 Q. And turning your attention to March of
17 1987, did you photograph a rally and a parade?

18 A. Yes, I did.

19 Q. And how was it you photographed that rally
20 and parade?

21 A. I sat up in front of the Labor Center and
22 videotaped the entire parade from that point; then
23 I moved out to the National Guard Armory, set up
24 video equipment, and again taped the rally almost
25 in its entirety.

1 Q. Now on whose behalf were you working at
2 that time?

3 A. Baker and Associates.

4 Q. And you know why Baker and Associates was
5 filming the parade and the rally?

6 A. I was told that we had been requested to
7 verify individuals participating in boycott
8 activities. Those individuals being either past
9 or present employees of George Horae1.

10 Q. Okay. I'll dispense with the
11 authentication of the tape if there's no issue.

12 Now we're going to go into --

13 JUDGE ROMANO: Well, inquire of Counsel
14 whether or not --

15 MR. LOEFFLER: Right.

16 JUDGE ROMANO: -- they have any question of
17 the authenticity of the tape.

18 MR. WILLIAMS: I've stated my position on
19 it. I'm not going to question the authenticity of
20 it.

21 JUDGE ROMANO: The witness -- has he
22 witness identified the tapes that we're about to
23 see as the tapes he took?

24 MR. LOEFFLER: Well, we can ask him that.

25 JUDGE ROMANO: Then we'll pose the question

P R O C E E D I N G S

JUDGE ROMANO: On the record. Before we begin, as I said yesterday, one of the witnesses, Mr. Braun, had been the object of --

MALE VOICE: Yes.

JUDGE ROMANO: -- had been the object of some phone threats. We spoke with Special Agent Hideman (phonetic) of the FBI as to -- and he's running the investigation now as we speak.

MALE VOICE: All right.

Whereupon,

CHARLES CLEMENS

was called as a witness herein, and, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. LOEFFLER:

Q. Would you state your name, please, sir?

A. Charles Clemens.

Q. And how is that spelled, sir?

A. C-L-E-M-E-N-S.

Q. Mr. Clemens, by whom are you employed?

A. I'm currently employed by Per Mar Security and Investigative Services.

Q. Can you describe to the Judge what the

1 business at Per Mar is?

2 A. We conduct private investigations and also
3 supply security services and consultation.

4 Q. Have you been a police officer?

5 A. Yes, I have.

6 Q. For what period of time?

7 A. From 1970 to 1977.

8 Q. Were you in the military?

9 A. Yes, I was.

10 Q. In what capacity?

11 A. I served with the United States Army in
12 Fifth Special Forces in Vietnam in an intelligence
13 gathering position.

14 Q. And what was involved in intelligence
15 gathering?

16 A. Interview, interrogation, surveillance.

17 Q. That was your job in the military?

18 A. Yes.

19 Q. And as a police officer, you were a general
20 police officer?

21 A. Yes, I worked routine patrol and I also
22 worked undercover narcotics.

23 Q. Now, did there come a time when you
24 performed some services for the George A. --
25 George Hormel Company?

1 A. Yes, I did.

2 Q. Turning your attention to 1987, tell us how
3 you came in contact with the Hormel Company?

4 A. I had been conducting workmen's
5 compensation investigations for Hormel.

6 Q. Tell us briefly what is entailed in that.

7 A. The individual plants would contact my
8 employer and request that an investigator, in this
9 case myself, be sent to their location where I
10 would normally meet with a personnel manager or
11 someone in that type of position who would give me
12 the name of an -- of an individual who was on
13 workmen's compensation -- was not currently
14 working. And that they had received outside
15 information that the individual was involved in
16 activities beyond their rated limitations.

17 Q. And were you then directed to conduct a
18 different kind of investigation in 1987?

19 A. Yes.

20 Q. Did somebody contact you? Do you know a
21 Mr. Doyle?

22 A. Yes, Mr. Jim Doyle. Mr. Doyle, who was at
23 that time involved in the worker's compensation
24 department for Hormel in Austin, Minnesota, the
25 personnel managers at the individual plants would

1 contact him when they had a -- a problem as far as
2 a workmen's compensation claim. And then Mr.
3 Doyle would contact my employer and give us the
4 name of the personnel manager, or plant manager,
5 or whoever that we were to contact. Then, at that
6 point, we would -- we would get in contact with
7 that individual.

8 Q. And were you put in contact with a plant
9 level person in Ottumwa, Iowa?

10 A. Yes, I was.

11 Q. Who was that?

12 A. Mike Maclean.

13 Q. And what was your relationship of Mr.
14 Maclean -- what were you to do for him?

15 A. Initially, he had some workmen's
16 compensation cases that he wanted investigated.

17 Q. All right. And did that ever take a turn
18 at any point in time?

19 A. Yes, it did.

20 Q. Tell us what happened.

21 A. I was summoned to meet with Mr. Maclean on
22 February 13th, 1987, that was a Friday. At that
23 time, Mr. Maclean informed me that there was a
24 meeting to be held in Des Moines and he handed me
25 a flyer describing that meeting.

1 Q. I'm going to show you Exhibit -- Respondent
2 6, and ask you whether that's the flyer that was
3 handed to you?

4 A. That appears to be the flyer, yes.

5 Q. Okay. Thank you.

6 What did you guys talk about then?

7 A. At that point, Mr. Maclean informed me that
8 an individual from Ottumwa and also an individual
9 from Fremont were scheduled to be speakers at that
10 particular meeting.

11 Q. Did he identify those folks by name?

12 A. Yes, he did.

13 Q. And who were they?

14 A. The last names were Langemeier and McClurg.

15 Q. Please tell us what the conversation then
16 ensued between you and Maclean?

17 A. At that point, Mr. Maclean stated that
18 there were concerns about the boycott of Hormel
19 products and that Mr. Langemeier -- there were
20 reports that he had boycott stickers on his
21 personal vehicles. And he wanted me to go to Des
22 Moines and attend the meeting if possible,
23 ascertain who was attending the meeting, and, if
24 possible, what was said during the meeting.

25 Q. What did you do then, sir?

1 A. The afternoon -- well, I went back to Des
2 Moines. The meeting was going to take place on
3 February 14th. I went back to Des Moines and
4 approximately four o'clock on the 14th, I went to
5 the area of 21st and Forrest in Des Moines where
6 the meeting was to be held.

7 Q. Okay. What day of the week was this?

8 A. Saturday.

9 Q. Now, why did you go that address?

10 A. The meeting was to be located at a building
11 at 2105 Forrest.

12 Q. Were you familiar with that building?

13 A. I was familiar with the area, yes.

14 Q. So what did you do?

15 A. Upon arriving, I got there about four
16 o'clock in the afternoon and there was not a great
17 deal of activity at that time. I parked my
18 vehicle in a lot which is southeast of that
19 location. It's a -- it's a restaurant -- a
20 barbecue place. And simply set up a -- a loose
21 surveillance at that point.

22 Q. Now was this the location that had been
23 identified in R-6 as the cite of these
24 meetings --

25 A. Yes, 2105 Forrest.

1 Q. And that's -- that's why you were there?

2 A. Yes.

3 Q. What did you do after that?

4 A. After observing for a period of time, and
5 as I previously stated, very limited activity at
6 that point, I drove down 21st Street and noted
7 that there was what appeared to be an alleyway
8 that went in behind the buildings at 2105 Forrest.
9 I turned my vehicle around, got out, and went in
10 and looked at that alleyway and the rear of the
11 building.

12 Q. What did you observe in the alleyway?

13 A. After you go past the end of the building
14 -- the buildings are -- are in an L-shape. They
15 go down Forrest and then down 21st. If you go --
16 go up the alleyway past the end of the building,
17 you can see the rear of 2105 and the buildings on
18 either side of it -- or the businesses on either
19 side of it.

20 I observed a rear door at 2105 and next to
21 that rear door was a vent type window. It has the
22 glass -- it's the crank open vent type window.

23 MR. LOEFFLER: We'll withdraw these and
24 have copies made.

25 MR. CHAPIN: Just -- these were pictures --

1 BY MR. LOEFFLER:

2 Q. Now I'm going to show you what's marked for
3 identification as R-33, Mr. Clemens, and ask
4 whether you can identify that picture?

5 (The document above-referred
6 to was marked Respondent
7 Exhibit R-33 for
8 identification.)

9 JUDGE ROMANO: Those are three pictures?

10 MR. LOEFFLER: No, R-33, sir.

11 JUDGE ROMANO: It's just one picture. All
12 right.

13 BY MR. LOEFFLER:

14 A. This is the business at 2105 Forrest as it
15 currently appears.

16 Q. All right. When was that picture taken?

17 A. This picture was taken just before we were
18 up here the last time.

19 Q. Okay, sometime in January or February of
20 1987?

21 A. Right, around the first of February of '89.

22 Q. Okay. Does that depict that building as it
23 appeared on February 14th, 1987, and if not,
24 what's different?

25 A. No, there are some minor superficial

1 changes. The overhead and the sign are different.
2 The glass front is exactly as it was on that day.

3 Q. Okay. So the sign identifying this
4 Pathfinder Book Store, that's new?

5 A. Yes.

6 Q. And --

7 A. From February 14th of '87, yes.

8 Q. -- any other changes -- was it -- were
9 there some embellishments on your --

10 A. Yes, before. It had another name at that
11 time.

12 Q. Now, I'm going to show you what's marked
13 for identification as Respondent's 34 and ask you
14 whether you can describe to the Judge that
15 location?

16 (The document above-referred
17 to was marked Respondent
18 Exhibit R-34 for
19 identification.)

20 BY MR. LOEFFLER:

21 Q. First, did you take that photograph?

22 A. Yes, I did.

23 Q. When did you take that?

24 A. This photograph was taken at the same time
25 as -- all three photographs were taken at the same

1 time.

2 Q. What's R-34?

3 A. R-34 is a view of the rear of 2105 Forrest.
4 There is -- the rear door is located behind this
5 enclosure. This is the vent window as I
6 previously described.

7 Q. So the vent window you described is
8 identified in this picture toward the right of the
9 picture, right?

10 A. Yes, as you face the rear of the building,
11 it is directly to the right.

12 Q. Okay. Now, I'm going to show you what's
13 marked for identification as R-35 and ask you
14 whether you're familiar with that photograph?

15 (The document above-referred
16 to was marked Respondent
17 Exhibit R-35 for
18 identification.)

19 BY MR. LOEFFLER:

20 A. Yes, this is a closer photograph of the
21 vent window on the rear of 2105 Forrest.

22 Q. Did you take that photograph?

23 A. Yes, I did.

24 Q. When?

25 A. At the same time the other two were taken,

1 approximately February 1.

2 Q. Okay. Now, putting R-34 and 5 in front of
3 you, what was different about that location on
4 February 14th, 1987, if any?

5 A. At that time, there were no sawhorses here.
6 In fact there was a -- a small dumpster -- trash
7 dumpster that was located back there.

8 Q. What's a dumpster?

9 A. It's a receptacle for throwing trash to be
10 picked up by the trash company.

11 MR. LOEFFLER: At this point, I will offer
12 R-33, 4, 5 into evidence.

13 JUDGE ROMANO: Any objections?

14 MR. WILLIAMS: I guess I don't have any. I
15 assume he's going to connect them, so I have no
16 objection.

17 MR. CHAPIN: Your Honor, I don't really
18 have any objections. Can I just look at --

19 JUDGE ROMANO: Yeah.

20 MR. CHAPIN: -- the pictures one more time?
21 I have -- I have no objections.

22 BY MR. LOEFFLER:

23 Q. Okay. That February --

24 JUDGE ROMANO: Excuse me, Counsel. R-33
25 through 35 are received.

1 MR. LOEFFLER: Sorry.

2 (The documents above-
3 referred to, heretofore
4 marked Respondent Exhibits
5 R-33 through R-35, were
6 received in evidence.)

7 JUDGE ROMANO: All right, go ahead.

8 BY MR. LOEFFLER:

9 Q. Back to February 14th, 1987. What happened
10 as the day progressed?

11 A. As it moved on toward the evening hours,
12 the vehicles started arriving and parking along
13 Forrest, and along 21st, and in the parking lots.
14 You know, this was a continuation in the early
15 evening hours that these vehicles arrived.

16 Q. Folks got out of them and what did they do?

17 A. They exited the vehicles. Some people
18 stood around talking outside. Some people
19 immediately entered 2105 Forrest.

20 Q. All right. Did you see Mr. Langemeier at
21 that time?

22 A. Not at that time.

23 Q. When did you first see him?

24 A. I observed Mr. Langemeier inside the
25 vestibule area. He was talking to another

1 individual. The inside of the building -- there
2 is a -- the glassed in area and then there's a
3 doorway that goes back inside.

4 Q. And how did you know the person standing
5 there was Mr. Robert Langemeier?

6 A. In my meeting with Mr. Maclean, I had been
7 provided a photograph of Mr. Langemeier that had
8 been taken from a videotape.

9 Q. All right. Did you attempt to get into
10 that meeting?

11 A. Later on, it was sometime between 6:30 and
12 7:00. A table had been set up in front of the
13 doorway going back into the back portion and they
14 were checking identifications, or union cards, or
15 something that made it clear that -- that if you
16 did not meet that particular requirement, you were
17 not going to be given admittance.

18 Q. As you saw it, you weren't going to get by
19 that --

20 A. I wasn't going to get in there.

21 Q. Okay. What did you do then?

22 A. At that point, I walked back out, walked
23 east across 21st Street, walked north on 21st,
24 crossed back westbound on 21st, and then returned
25 southbound back up to the alleyway going in behind

1 he building.

2 Q. All right. And when you got into the
3 alleyway, what did you do?

4 A. At first, I went to the rear door and the
5 rear door was secured. And you could hear voice
6 sounds from inside, but intelligible sounds.
7 Nothing that you could be identified as -- as --
8 to exactly what was being said.

9 Q. What did you do with respect to the vent
10 window?

11 A. On closer inspection, as you can see in the
12 -- in the picture, the vent window was not a tight
13 fitting vent. It -- when it's cranked closed,
14 there are -- there are some gaps -- slight gaps in
15 that window.

16 I had no idea what was on the other side of
17 that window, whether it would be a bathroom, or a
18 kitchen, or whatever, but you could hear voice
19 sounds and you could identify what was being said
20 coming from that window.

21 Q. What did you do at this point?

22 A. At that point, the dumpster was
23 approximately 10 feet to the left. I moved it
24 over in front of the window and entered the
25 dumpster

1 Q. All right. And what equipment, if any, did
2 you have with you?

3 A. I had a tape recorder equipped with a
4 standard microphone.

5 Q. Can you describe it a bit to the Judge
6 what --

7 A. Yes, it's -- it's a Panasonic tape
8 recorder. It's identified as a personal tape
9 recorder. It's the smaller version that --
10 cassette that takes a standard cassette type, and
11 it was equipped with -- with a microphone -- an
12 external microphone.

13 Q. All right. You say external microphone.
14 What capacities did that microphone have --

15 A. It was --

16 Q. -- and what was its function?

17 A. -- it was simply a plug in type microphone
18 which allowed you to move the microphone without
19 moving the entire tape recorder.

20 Q. And did it function as a receiver?

21 A. Yes, it did.

22 Q. What happened then?

23 A. I had been in -- in my conversation with
24 Mr. Maclean, he had specifically shown an interest
25 in Mr. Langemeier and what Mr. Langemeier had to

1 say. And so I simply remained in the dumpster
2 listening to what was -- what I could discern and
3 what I could hear through that vent window.

4 Q. Did someone introduce Mr. Langemeier as a
5 speaker?

6 A. Yes, on into the program.

7 Q. What -- tell us what the person said?

8 A. The exact words, I -- I don't recall other
9 than introducing him as -- by name.

10 Since I -- you know, at that point since
11 the name was stated, I assumed that that's who was
12 speaking.

13 Q. Okay. And then did you hear a voice
14 thereafter?

15 A. Yes.

16 Q. Was that voice audible to you?

17 A. Yes, for the most part.

18 Q. Did you hear the words the speaker was
19 speaking?

20 A. Yes.

21 Q. What did the speaker say to the best of
22 your recollection today?

23 A. Mr. Langemeier spoke concerning solidarity
24 and that the union people must maintain and -- and
25 stay together. He was talking about -- and -- and

1 out of the dumpster and left.

2 Q. Okay. When did you next meet with
3 representatives of Hormel Company?

4 A. The following Monday.

5 Q. Tell us about that?

6 A. I was summoned to meet with Mr. Mike
7 Maclean; also present was the plant manager from
8 the Ottumwa plant. At that time --

9 Q. Who was he?

10 A. Mr. Ralph Nelson.

11 Q. Mr. Ralph Nelson.

12 A. At that time, we conducted a conversation
13 as to what -- what I had done, what had
14 transpired, and the tape was played, and I -- at
15 that time, I turned over the picture and the tape
16 to Mr. Mike Maclean.

17 The statement was made that Mr. Jorgenson
18 was going to be contacted and that was my final
19 contact with the -- with the case.

20 Q. Did they identify who Mr. Jorgenson was?

21 A. He, I believe, was the plant manager at the
22 Fremont plant.

23 Q. Okay.

24 MR. LOEFFLER: Thank you, sir. I have no
25 further questions at this time.

1 would be known by some of the people who could
2 possibly be there.

3 Q. Your testimony -- your previous testimony
4 with Hormel would have been worker's comp related
5 testimony?

6 A. On worker's comp, yeah.

7 Q. How long did you remain in the alleyway?

8 A. Probably between two and three hours.

9 Q. Were you recording that whole time --

10 A. No, I was not.

11 Q. -- with your tape recorder?

12 And it's your testimony, is it -- is it not
13 that you did not know what was on the other side
14 of that vent window -- what room that fed into?

15 A. No, sir.

16 Q. Okay.

17 JUDGE ROMANO: Did you record anybody other
18 than Mr. Langemeier?

19 THE WITNESS: The only other voice that was
20 on the tape, sir, was -- was the introduction, and
21 I don't know who that was.

22 BY MR. WILLIAMS:

23 Q. Did you -- who spoke first, or what was
24 said first? What's the first thing you remember
25 hearing?

1 asking you about production standards and you said
2 you'd heard something about that. Had you heard
3 anybody talk about lowering those standards or
4 slowing down those standards? Had you heard that
5 in these conversations --

6 A. I'm not sure I understand your question,
7 Counsel.

8 Q. Well, you said that you'd heard somebody
9 during this -- the taping of this conversation
10 talk about the standards and what they thought the
11 standards was excessive, is that correct?

12 A. Yes, sir.

13 Q. Did you hear anyone talk about how maybe
14 those should be lowered or reduced?

15 A. I don't recall, sir. Are you referring to
16 by the Company -- that those should be reduced by
17 the Company?

18 Q. Right.

19 A. I honestly don't recall, sir.

20 Q. Okay. Now, did you ever go back -- you
21 testified -- let me rephrase this question.

22 You testified that you went back and took
23 some pictures in January or late -- early February
24 or late January of '89 --

25 A. This year, yes, sir.

1 Q. -- of this year.

2 When you went back, did you, by chance, go
3 into the Pathfinder to determine where the vent
4 was located outside?

5 A. No, sir, I did not.

6 Q. Okay. So you still don't know whether it's
7 a bathroom --

8 A. I --

9 Q. -- or a kitchen?

10 A. -- that's right. I don't know what it goes
11 to, sir.

12 Q. Maybe just to clear up one little point for
13 me. You also testified that you had reported
14 licence numbers. Why -- why did you do that?

15 A. Mr. Maclean had -- had asked me to note who
16 was there at the meeting.

17 Q. Now, do you recall -- did you stay for the
18 entire meeting?

19 A. No, sir, I did not.

20 Q. Okay. How long did you stay?

21 A. I arrived on the scene at about four
22 o'clock in the afternoon.

23 Q. Okay, and so --

24 A. So total time -- total time there, I
25 probably spent between five and six hours.

1 JUDGE ROMANO: Back on the record.

2 MR. WILLIAMS: As General Counsel's
3 rebuttal witness, we'd like to call Pete Bucy.

4 JUDGE ROMANO: All right.

5 MR. WILLIAMS: Would you please come on up?

6 Whereupon,

7 PETER L. BUCY

8 was called as a rebuttal witness herein, and,
9 having been first duly sworn, was examined and
10 testified as follows:

11 DIRECT EXAMINATION

12 BY MR. WILLIAMS:

13 Q. Okay. Could you please state your full
14 name, spelling your last name for us?

15 A. Peter L. Bucy, B-U-C-Y.

16 Q. Okay. Mr. Bucy, first of all, we are
17 recording the hearing so please answer all my
18 questions verbally. Nods of heads and those
19 things don't work.

20 A. Okay.

21 Q. Okay. What -- what's your -- what's your
22 home address, Pete?

23 A. It would be Rural Route 1, Decatur,
24 Nebraska.

25 Q. Are you presently employed?

1 A. Yes, I work part-time for Iowa Beef and
2 farm 500 acres.

3 Q. Okay.

4 A. And we also have a near new store in
5 Tekamah.

6 Q. A -- a what was that?

7 A. A near new store.

8 Q. A near new store?

9 A. Yes.

10 Q. Okay.

11 A. Small business.

12 Q. Okay. And are you married?

13 A. Yes, I am.

14 Q. And what's your wife's name?

15 A. Phyllis Bucy.

16 Q. Okay. You say you work part-time for Iowa
17 Beef. How long has that -- how long have you
18 worked for Iowa Beef?

19 A. I worked about 10 years for Iowa Beef.

20 Q. Okay. Where is Iowa Beef located?

21 A. At West Point, Nebraska.

22 Q. Okay. Is that a unionized facility?

23 A. No, not at the present time.

24 Q. Your wife, Phyllis, she's a former Hormel
25 employee, is that correct?

- 1 A. Yeah.
- 2 Q. Yeah, at which plant did Phyllis work?
- 3 A. Fremont, Nebraska.
- 4 Q. Okay. Do you know Bob Langemeier?
- 5 A. Yes.
- 6 Q. Okay. How long have you known Bob?
- 7 A. About three years.
- 8 Q. Okay. Well, how did you first come to --
- 9 to meet Bob Langemeier -- under what
- 10 circumstances?
- 11 A. After the pickets arrived at Fremont, my
- 12 wife honored the picket line, and I believe the
- 13 first time was at a union meeting at Christians
- 14 Field.
- 15 Q. Okay. And that would have been about what
- 16 -- what time period?
- 17 A. January of -- well, it would have been the
- 18 January after the pickets were -- uh -- it's been
- 19 a while ago. What year -- '86? No, '87. '86.
- 20 '86.
- 21 Q. Okay.
- 22 A. I'm sorry.
- 23 Q. No, that's all right.
- 24 A. It's been a few years.
- 25 Q. Okay. Let me direct your attention to

1 March 14, 1987. Did you have an occasion to go to
2 Des Moines, Iowa?

3 A. Yes, I did.

4 Q. Okay. Who -- who did you go there with?

5 A. We went with my wife -- my -- Phyllis and
6 I, my wife and I, Bob Langemeier and his wife. I
7 drove to Des Moines.

8 Q. And what was the -- what was the purpose of
9 your trip?

10 A. The SWP was having a -- a meeting in Des
11 Moines, Iowa, and we were -- I was interested in
12 going so we went.

13 Q. Okay. Are you in any way affiliated or
14 associated with SWP?

15 A. No.

16 Q. Anyone else travel with the four people
17 that you mentioned?

18 A. No.

19 Q. Okay. Tell us what time of day did you
20 leave and from -- from what -- well, where did you
21 leave from?

22 A. We left from Fremont. We stopped and
23 picked up Bob and his wife, and -- and, if I
24 remember right, we stopped at Hi-Vee and got
25 sandwiches and headed to Des Moines. And we

1 we got there.

2 Q. Okay. Did -- do you -- do you know if they
3 asked any other people in your party for
4 identification at all?

5 A. No, I'm sure of that.

6 Q. You've already said there were folding
7 chairs. Was there -- I want you to describe the
8 scene for the Judge. Was there a podium, or -- or
9 how was -- how were the speakers arranged?

10 A. There was a small podium. It -- and a
11 table where the speakers sat.

12 Q. Okay. Was there a microphone or public
13 address system?

14 A. I believe there was a microphone.

15 Q. Okay. Who sat up to the -- who sat at the
16 speaker's table, if you recall?

17 A. Okay. Bob Langemeier, Mac Warren -- these
18 are names that I can remember. Okay. Lynn
19 Huston, I believe, and I could -- I knew the other
20 people but could not remember their names at this
21 time.

22 Q. You don't have any recollection. Do you --
23 first of all, before I ask you about that.

24 Do you know who Mac Warren is?

25 A. Yeah.

1 Q. Who is -- who is he?

2 A. Well, he's some leader of the Socialist
3 Workers Party.

4 Q. Okay. Do you know Cathy Buck?

5 A. Yeah.

6 Q. Do you recall if Cathy Buck was present?

7 A. Yes, she was.

8 Q. Okay. Was she a speaker at the speaker's
9 table?

10 A. I believe so, yeah.

11 Q. Do you know Larry McClurg?

12 A. Yeah.

13 Q. Okay. Was Larry present at this --

14 A. I -- yes, Larry was sitting there.

15 Q. Okay, and was he at the speaker's table as
16 well?

17 A. Yes.

18 Q. Okay. Do you -- do you know where Larry
19 McClurg is employed or was employed at the time?

20 A. Ottumwa, Iowa, I think.

21 Q. Within a Hormel facility?

22 A. Right, Hormel.

23 Q. How about Cathy Buck, do you know where she
24 is from?

25 A. Austin, Minnesota.

1 Q. Had you met these individuals before?

2 A. Yes, I had.

3 Q. Okay. Pete, I need you to tell me about
4 this -- this Pathfinder Bookstore forum. How did
5 it open up and who was -- who was directing this
6 thing? Was there a moderator and --

7 A. Well, I would say Mac Warren was pretty
8 much kind of the chair person or the moderator of
9 this.

10 Q. Okay. Now tell us the best you recall now
11 how did this meeting or forum open up?

12 A. I believe it was with Mac Warren
13 introduction speech and he brought forth the
14 different guests.

15 Q. Okay. Before you go any further, was there
16 any introduction of speakers?

17 A. Yes, and Mac Warren --

18 Q. Okay.

19 A. -- did that.

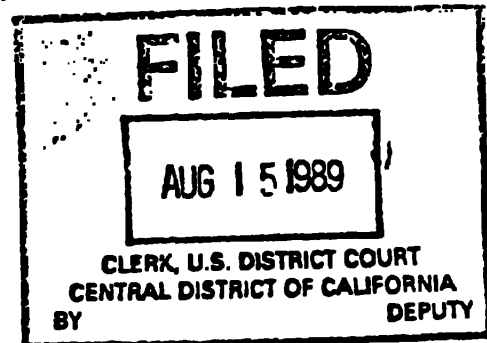
20 Q. Okay. What I wanted to -- do they
21 interview speakers collectively all at once, or
22 did they interview --

23 A. I believe so, yes.

24 Q. Okay.

25 A. That's the way.

Exhibit K



UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ALAN GELFAND,

Plaintiff(s),

v.

WILLIAM FRENCH SMITH,
et al.,

Defendants.

CASE NO. CV 79-2710 MRP

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

I. BACKGROUND

This case was tried to the Court commencing March 2, 1983 and concluding March 9, 1983. It proceeded to trial on two claims presented by plaintiff Alan Gelfand ("Gelfand"). In the first claim, plaintiff alleged that each of the individually named defendants were agents of the United States government and that they worked as agents inside the Socialist Workers Party in order to effect the expulsion of plaintiff from the party. Plaintiff claimed that the individually named defendants expelled him from the party in order to silence his attempts to expose them and others whom he claimed were government agents. This first claim is referred to as the Constitutional claim. In the second

1 claim, plaintiff alleged that his expulsion was carried out
2 in breach of the SWP's Constitution, Organizational
3 Principles, and traditions. This second claim for breach of
4 contract is referred to as the pendent claim.

5 At the conclusion of plaintiff's case, the defendants
6 moved for dismissal under Fed. R. Civ. P. 41(b). The Court
7 announced that it was reserving ruling on this motion until
8 the conclusion of all of the evidence. Defendants then
9 rested.¹ On March 21, 1983, the Court stated its findings
10 in favor of defendants in open court and announced its
11 intention to award attorneys' fees to the SWP defendants.
12 Pursuant to defendants' statement that they intended to
13 move, under 42 U.S.C. § 1988, 28 U.S.C. § 1927, and the
14 inherent power of the Court for an award of attorneys' fees
15 and costs, the Court and the parties then agreed upon a
16 briefing and hearing schedule for defendants' motions for
17 attorneys' fees. The motions for attorneys' fees were
18 briefed, argued and subsequently taken under submission.
19 The motion made by the individually named defendants and the
20 party was withdrawn on May 16, 1989 pursuant to stipulation
21 of the parties.

22 II. FINDINGS OF FACT

23 1. Definitions

24 ///

26 ¹The Court permitted defendant SWP to present evidence
27 on the Constitution, Organizational Principles and
28 traditions of the SWP by way of direct examination of
defendant Larry Seigle during the time Mr. Seigle was on the
witness stand as an adverse witness called by plaintiff.

1 a. "SWP" refers to defendant Socialist Workers
2 Party.

3 b. "SWP defendants" refers to the individually
4 named defendants, Jack Barnes, Larry Seigle, Douglas
5 Jenness, Peter Camejo, Bruce Marcus and Pearl Chertov.

6 c. "Workers League" refers to the Workers League
7 political organization.

8 d. "Workers Revolutionary Party" refers to the
9 Workers Revolutionary Party political organization.

10 e. "Amicus Brief" refers to the Application of
11 Alan Gelfand for Leave to File Brief as Amicus Curiae in
12 Support of Appellee and Brief of Alan Gelfand In Support of
13 Appellee, which was filed by plaintiff with the Court of
14 Appeals for the Second Circuit in December 1978.

15 f. "Government defendants" refers to William
16 French Smith, then Attorney General of the United States,
17 William Webster, then Director of the Federal Bureau of
18 Investigation, and William Casey, Director of the Central
19 Intelligence Agency. These individuals were sued in their
20 representative capacity.

21 g. "FBI" refers to the Federal Bureau of
22 Investigation.

23 h. "CIA" refers to the Central Intelligence
24 Agency.

25 2. The SWP is a political organization. As a
26 condition of membership, members expressly agree to abide by
27 the SWP Constitution and its Organizational Principles.
28

1 3. Plaintiff Alan Gelfand joined the SWP during the
2 first quarter of 1976.

3 4. In August 1977, plaintiff began to present ;
4 questions to SWP members derived from allegations appearing
5 in publications of the Workers League and the Workers
6 Revolutionary Party that past and present party members and
7 leaders were government agents. Plaintiff was advised by
8 the SWP leadership that the allegations had been resolved
9 within the SWP, that the allegations were false, and that
10 the charges were answered in the document "Healy's Big Lie".
11 Thereafter, at the Los Angeles local membership meeting of
12 September 12, 1977, plaintiff delivered a speech concerning
13 those charges. On January 23, 1978, he attempted to deliver
14 another speech on the subject, but was ruled out of order,
15 which ruling was sustained by a vote of the membership
16 present.

17 5. Thereafter, plaintiff was warned in two separate
18 conferences that his attempts to repeat the allegations
19 contained in his September 12, 1977 speech at successive
20 meetings were disruptive to the organizational functioning
21 of the SWP. This warning was later repeated in a letter of
22 April 7, 1978 to him from the Political Committee of the
23 party.

24 6. Plaintiff did not heed the warnings. He repeated
25 the allegations and, in addition, accused the elected
26 leadership of the SWP of "covering up" with respect to those
27 allegations. A series of letters were written by plaintiff
28

1 under the guise of his right to raise questions. Each of
2 these letters contains essentially a repetition of the same
3 charges that plaintiff had derived from the Workers League
4 and Workers Revolutionary Party publications. (Letters of
5 January 25, 1978 (Ex. 12), January 29, 1978 (Ex. 14),
6 February 16, 1978 (Ex. 15), March 26, 1978 (Ex. 16), leaflet
7 of March 27, 1978 (Ex. 11), letter of April 10, 1978 (Ex.
8 22), May 6, 1978 (Ex. 26), May 8, 1978 (Ex. 27), and May 31,
9 1978 (Ex. 30)). Plaintiff's letters were not good faith
10 inquiries.

11 7. Following the warning to plaintiff in the
12 Political Committee letter of April 7, 1978, plaintiff
13 travelled to England where he met with Alex Mitchell, an
14 important leader in the Workers Revolutionary Party, which
15 is associated with the Workers League. Mitchell put
16 plaintiff in touch with David North, National Secretary of
17 the Workers League organization in the United States.
18 Following his return from England, plaintiff then prepared
19 and filed in December 1978 the Amicus Brief in which he
20 placed before the Second Circuit Court of Appeals many of
21 the same allegations, and others, which he had made within
22 the organization of the SWP. The allegations were
23 essentially the same as those found in the publications of
24 the Workers League and Workers Revolutionary Party.

25 8. The Amicus Brief was filed in the case of
26 Socialist Workers Party, et al. v. Attorney General of the
27 United States, et al., inter alia, in which the SWP sought
28

1 an injunction against the use by the FBI and CIA of
2 informers against the SWP. In pretrial discovery, the
3 United States District Court for the Southern District of
4 New York had ordered certain files with respect to FBI
5 informers produced and had held the Attorney General in
6 contempt for failure to comply. The Attorney General sought
7 review of that contempt by writ in the Court of Appeals for
8 the Second Circuit asserting, inter alia, that disclosure
9 would jeopardize the physical safety of informers. In this
10 setting, plaintiff filed his Amicus Brief repeating many of
11 the same allegations he had made within the SWP and also
12 appending a 1940 letter from J. Edgar Hoover containing a
13 report that SWP leader Joseph Hansen had killed a man named
14 George Mink by tying him up and throwing him into a crater.
15 The SWP did not consent to the filing of the Amicus Brief,
16 nor would it have consented to its filing if its consent had
17 been sought. Plaintiff's testimony that he believed the act
18 of filing his Amicus Brief was in the best interests of the
19 SWP is not credible. When the SWP leadership discovered
20 that plaintiff had filed this damaging Amicus Brief, Jack
21 Barnes, the National Secretary, formally charged plaintiff
22 with disloyalty to the SWP.

23 9. By letter of January 5, 1979, plaintiff was
24 advised of the charges against him and that the charges
25 would be considered and acted on by the Political Committee
26 on January 11, 1979.

1 10. On January 8, 1979, plaintiff telephoned the
2 National Office of the SWP in New York City and was advised
3 by Mary Roche that if he came to the National Office at the
4 time of the scheduled meeting, the Political Committee would
5 consider a request by him to appear and be heard. Ms. Roche
6 also advised plaintiff that he could submit any written
7 statement to the Political Committee and that any such
8 statement would be considered. Plaintiff did not appear at
9 the National Office at the time of the meeting and did not
10 submit any statement or other written material.

11 11. On January 11, 1979, plaintiff was expelled from
12 the SWP by a unanimous vote of the Political Committee
13 acting as the duly elected body of the SWP responsible for
14 this function. In acting to expel plaintiff, neither the
15 Political Committee nor any of its members were acting under
16 the control or influence of any agency or agent of the
17 United States government.

18 12. On January 29, 1979, plaintiff wrote a letter to
19 the Political Committee concerning his expulsion. This
20 letter was treated by the SWP as an appeal by plaintiff of
21 his expulsion. Plaintiff's expulsion was thereafter
22 confirmed and his appeal denied by the National Committee
23 and by the National Convention of the SWP. Plaintiff was
24 not denied any right he had as a member of the SWP to appeal
25 his expulsion from the party.

26 13. The Constitution, Organizational Principles and
27 traditions of the SWP do not provide for any hearing or
28

1 other procedural right beyond those that were in fact
2 provided to plaintiff.

3 14. As to any action taken with respect to plaintiff
4 or conduct toward him, there is no evidence that any SWP
5 defendant ever acted as an agent of the United States
6 Government or any of its agencies.

7 15. There is no credible evidence that any individual
8 SWP defendant was or had been an agent of the FBI, the CIA
9 or any other agency of the United States government.

10 16. At all times relevant hereto, the SWP was a bona
11 fide political party and was not controlled by the FBI, CIA,
12 or any other agency of the United States government.

13 17. In July 1979, plaintiff filed this lawsuit
14 ostensibly seeking reinstatement with the SWP based on his
15 allegations that the elected SWP leadership contained
16 government agents who had expelled him to silence him. He
17 also claimed that he had been expelled in violation of the
18 party's procedures. Plaintiff did not then have any
19 substantial basis in fact for any of his allegations, nor
20 did he have a good faith belief that the allegations were
21 true. Plaintiff had been a practicing attorney for several
22 years and appreciated the nature and meaning of a legal
23 proceeding brought in good faith. Plaintiff's initiation of
24 this litigation was not in good faith. His motivation was
25 to disrupt the SWP.

26 18. A large part of the discovery in this case was not
27 conducted in good faith. The pretrial discovery conducted
28

1 by plaintiff was abusive, harassing and in large part
2 directed to matters which could have no probative value in
3 this litigation. The discovery was not conducted for the
4 purpose of discovering evidence in support of plaintiff's
5 claims; one of its main purposes was to generate material
6 for political attacks on the SWP by the Workers League and
7 the Workers Revolutionary Party.

8 19. Throughout the litigation, it appears that a
9 substantial portion of the fees of plaintiff's counsel were
10 paid by funds raised by the Workers League. The Workers
11 League also assisted plaintiff in other ways. Plaintiff
12 provided the discovery in this case to persons who
13 channelled the information obtained to the Workers League
14 and Workers Revolutionary Party for publication in their
15 newspapers.

16 III. CONCLUSIONS OF LAW

17 1. This is an action for declaratory and injunctive
18 relief based on the first and fifth amendments to the
19 Constitution, 42 U.S.C. §§ 1985(3) and 1986, 5 U.S.C. 702.
20 The Court has jurisdiction under the Constitution and laws
21 of the United States, 28 U.S.C. §§ 1331 and 1343(4). The
22 Court has pendent jurisdiction over the breach of contract
23 claim.

24 2. As a bona fide political party, the SWP is
25 entitled to the full protection of the first amendment. Any
26 attempt by any government agency to manipulate, control, or
27 secretly influence the private or public activities or
28

1 decisions of the SWP would be unlawful. However, there is
2 no evidence in this case, credible or otherwise, that any
3 such manipulation, control, or secret influence occurred.

4 3. The expulsion of plaintiff from the SWP did not
5 violate any right or protection to which he is entitled
6 under the Constitution or laws of the United States.

7 4. Plaintiff's expulsion from the SWP did not violate
8 the party's Constitution, Organizational Principles or
9 traditions. Plaintiff therefore is not entitled to relief
10 with respect to his pendent claim.

11 5. The SWP and the individual SWP defendants are
12 entitled to judgment against plaintiff.

13 6. The government defendants are entitled to judgment
14 against plaintiff.

15 7. The Court makes no award of attorneys' fees to any
16 defendant.

17 8. The defendants are entitled to recover their costs
18 of suit against plaintiff.

19 DATED:

August 11, 1989

Mariana R. Pfaelzer
Mariana R. Pfaelzer
United States District Judge

Exhibit L

JUN 29 1990

DECLARATION

I, ANNA SCHELL, declare and say:

1. I make this declaration based on personal knowledge.
2. On February 17, 1990, I was present at the local office of the Socialist Workers Party in New York City. The local office is located at the same premises as the Pathfinder bookstore. On the next day, a public forum was to be held at the offices concerning Cuba.
3. The offices received a number of threatening telephone calls that evening. I personally received a number of these calls including one from a woman who referred to "you communist bastards" and one from a male who said "watch, we're coming tomorrow with hundreds of our friends" and "you better take a shit tonight because you won't have time tomorrow."
4. Other individuals at the office that night received telephone calls with the caller making similar threatening statements. These threatening telephone calls continued through the night.

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 1, 1990 at New York, New York.


ANNA SCHELL

Exhibit M

KC bookstore angry over recent threats Political meeting preceded attack

By Steve Buckner
Of the Metropolitan Staff

A rock thrown through the window of Pathfinder Bookstore prompted an outpouring of condemnation Wednesday during a press conference at the store.

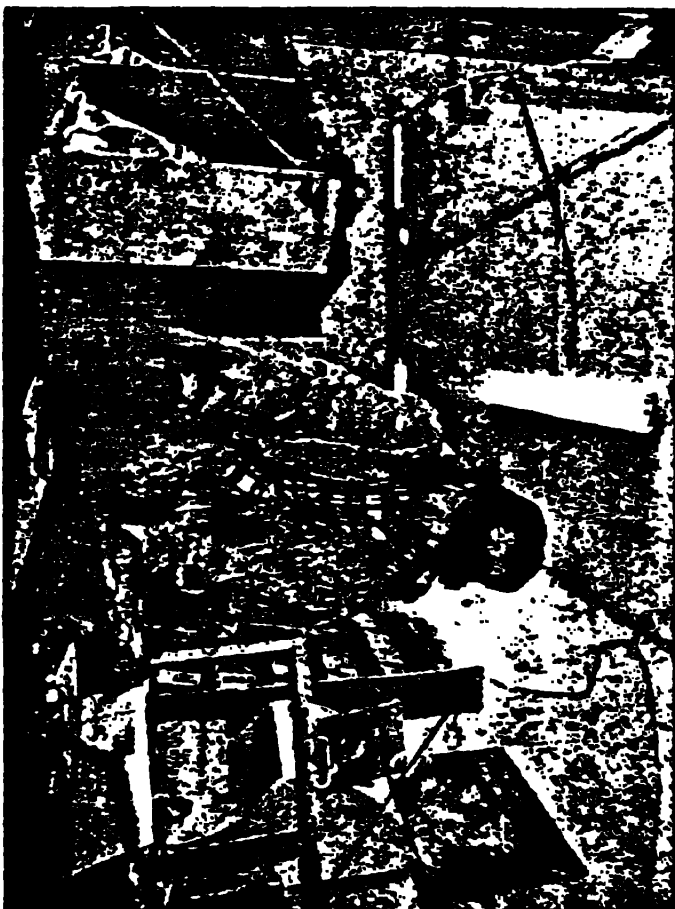
The broken window followed three threatening phone calls to the store last weekend after the Militant Labor Forum conducted a meeting there Friday criticizing the U.S. invasion of Panama.

Employees of the bookstore at 5534 Troost Ave. discovered the damage Wednesday morning.

"These acts of terror are attempts to intimidate us from standing up and opposing attacks by the government on our rights — from the invasion of Panama to our civil rights," Paco Sanchez, director of the Militant Labor Forum, said in a statement.

Five other persons representing seven area groups denounced the incident. Several people, including Sanchez, said the incident and the Friday firebombing of the Planned Parenthood clinic in Independence demonstrate a climate of violence that exists in Kansas City.

In her own prepared statement, Erika Fox, director of public affairs for Planned Parenthood of Greater Kansas City, said that her organization "is regrettably the target of violence. ... We



Steve Buckner/Staff

At the Pathfinder Bookstore, Alvirio Carrillo picks up fragments of broken glass Wednesday afternoon after a rock was thrown through the front window. The window had displayed a banner reading "U.S. Out of Panama."

thoroughly condemn the violence that occurred here today and the narrow-minded view it represents."

Kansas City Councilman Emanuel Cleaver, who could not attend the press conference, said it was ironic that the act represented the same kind of totalitarianism that had existed in Panama and was an embarrassment to the city.

"I think that this kind of act suppresses freedom of expression and cannot be tolerated in Kansas City," Cleaver said.

Sanchez said he hoped for police protection for the store, but had not re-

ceived any assurances from the Police Department.

The phone calls also bothered Sanchez because of their threatening nature.

"The insulting language is not uncommon," he said. "But spelling out what they're going to do is different."

The store's answering machine taped the three calls on Sunday. All three calls carried a similar message.

One call ended with "... we're going to get you, you punko pigs," and another call said that "... you should be shot."

All three contained other insults and vulgarities.

Kansas City activists protest attack on Pathfinder Bookstore

BY ARLENE RUBINSTEIN

KANSAS CITY, Mo. — A rock was hurled through the window of the Pathfinder Bookstore here during the night of January 2. A large banner demanding "U.S. out of Panama" was still hanging after the attack.

Just three days earlier, on December 29, a public meeting was held at the bookstore protesting the U.S. invasion of Panama. Speakers included church leaders, solidarity activists, a Vietnam veteran, and others. The meeting took place the day after a successful press conference was held at the offices of the Southern Christian Leadership Conference (SCLC) which condemned the invasion.

On December 31 the Pathfinder Bookstore received a threatening phone call recorded on its answering machine that said in part, "... to suggest that the U.S. invasion of Panama was a racist attack is ludicrous, it's pure demagoguery ... you should be shot."

A press conference was held the afternoon following the attack on the bookstore and was attended by Don McClain, a leader of the Kansas City Interfaith Peace Alliance; Erikka Fox, a representative of Planned Parenthood; Katie Neely, an organizer for the Central America Solidarity Coalition; Maureen Flynn-Hart with a statement from St. Mark's and St. Stephen's churches; and Paco Sánchez of the Socialist Workers Party. Statements were also received from the Mayor's Commission on Hate Group Activities and Nelson "Fuzzy" Thompson, president of the Greater Kansas City Chapter of the SCLC.

Exhibit N

Omaha campaign office vandalized

BY DIANE SHUR

OMAHA, Neb. — When supporters arrived at the office of the Socialist Workers Party election campaign here March 12, they found that the windows of the storefront office had been shattered. Cement bricks had been hurled through two large plate-glass windows.

Four hours later, a news conference was held to protest the vandalism. "We hold Mayor Walter Calinger responsible for ensuring the safety of all citizens to engage in political activity free of harassment," stated Chris Hoeppner, the SWP candidate for city council from District 3. "We demand the full investigation, arrest, and prosecution of those responsible for this violence."

"Attacks like this will not prevent Joe Swanson or myself or our supporters from speaking out in the interests of working people," Hoeppner said. Swanson is the SWP candidate for mayor. The primary election is scheduled for April 4.

Anna Schell, manager of the Pathfinder bookstore, which is located in the same place, chaired the news conference. "Our bookstore will not close down because of this attack," she said.

"This is a very basic issue — free speech," said Ken Anderson of the Omaha Central America Response Team. "If you buckle under to this kind of thing, you lose that right. The only way to end intimidation is to do what you are doing. I applaud you."

"I wish the best for this bookstore," declared Rowena Moore, founder and president of the Malcolm X Memorial Foundation. "I feel part of a bookstore that carries so much of Malcolm X's work. When I got a call telling me what happened here, I felt

the way you do when you learn someone died.

"So," she continued, "I came to this press conference the way you go to offer condolences. But I guess condolences are not really in order because you are organizing a response and going on with your work."

Hoeppner announced plans for a rally at the bookstore at 140 S. 40th St., on Saturday, March 18, at 4:00 p.m. The gathering will protest the vandalism and raise funds to pay the cost of the damage. The news conference was covered that evening on Channel 6 television news and in the *Omaha World Herald*.

Exhibit 0

DECLARATION

I, MERYL LYNN FARBER, declare and say:

1. I am one of the individuals involved in the preparation of the mural known as the "Pathfinder Mural" located on the side of the building located at 408-410 West Street in New York City.

2. The mural celebrates and depicts a number of revolutionary socialist figures and labor leaders, including Karl Marx, Frederick Engels, Vladimir Lenin and other leaders of the Communist International in its early years, James P. Cannon, Farrell Dobbs, Fred Halstead, Joseph Hansen, Evelyn Reed, Fidel Castro, Ernesto Che Guevara and Malcolm X.

3. The mural itself is a collaborative effort of many different individuals. The artists who have painted particular portions include artists from around the world.

4. The building on which the mural has been painted is known as the Pathfinder Building, after Pathfinder Press which is located in the building. Pathfinder is a well-known publishing company and has published works of Farrell Dobbs, James P. Cannon, Fred Halstead (all longtime leaders of the Socialist Workers Party), Fidel Castro, Ernesto Che Guevara, Malcolm X, Nelson Mandela, Carlos Fonseca, Maurice Bishop and Thomas Sankara.

5. The national offices of the Socialist Workers Party are also located in the same building.

6. The mural itself has been the center of considerable controversy . In December 1989, one New York City newspaper printed a critical editorial with the headline "Off the wall -- and that's where it belongs." The editorial then questioned whether it was "appropriate to inflict such a mural on the sensibilities of ordinary New Yorkers." New York Post, November 19, 1989. Another newspaper suggested that "R.I.P" and "never again" be added to the mural. Daily News, November 24, 1989, p. 58.

7. Shortly after these newspaper articles appeared on December 11, 1989 a series of telephone calls were received in an office in the building threatening violence. The caller asked a question about the mural and then stated that "we're going to blow you up" and "we're going to kill you commie motherfuckers."

8. Shortly after receiving the telephone calls (which were reported to the local police), someone defaced the mural with paint thrown in bottles, bearing swastikas and the "SS" insignia, between the evening of December 20 and the morning of December 21, 1989. (I attach hereto a copy of the New York City Police Department's invoice for the remains of the bottles.)

9. Since that time it has been necessary to institute additional security measures at the site of the mural to protect the mural and the building.

I declare under penalty of perjury that the foregoing
is true and correct. Executed on July 2, 1990 at New York, New
York.


_____ MERYL LYNN FARBER

NATIONAL LABOR RELATIONS BOARD

Case No. 17-CA-12789 17-CA-12828
 17-CA-13428 17-CA-13428-2

In the Matter of:

GEO. A. HORMEL & COMPANY,

Respondent,

and

ROBERT W. LANGEMEIER, an Individual,

and

**UNITED FOOD AND COMMERCIAL WORKERS
INTERNATIONAL UNION, LOCAL UNION
NO. 22,**

Charging Party.

Pages: 1467 - 1586

Place: Fremont, Nebraska

Date: March 17, 1989

Argie Reporting Service

**2000 W. 70th Terr.
Kansas City, MO 64113
(816) 363-3657**

Exhibit P

November 19, 1989

NEW YORK POST

Founded by Alexander Hamilton in 1791

PETER S. KALIKOW Publisher and Chairman
VALERIE B. SALEMBIER President
JERRY NACHMAN Editor
LOU COLASUONNO Managing Editor
ERIC BREINDEL Editorial Page Editor
JOHN COTTER Metropolitan Editor
STEVE CUOZZO Permanent Managing Editor

Off the wall — and that's where it belongs

As the symbols of communist power are bit by bit being withdrawn from public squares in Eastern Europe and even, to a degree, in the Soviet Union, they are, remarkably enough, being given a new life in the United States.

New Yorkers who drive along the West Side highway will soon be able to see a gigantic artistic celebration of a number of communist dictators and activists — the so-called "Pathfinders Mural" — painted on the side of a building at West and Charles Streets.

On the mural are huge portraits of Marx, Lenin, Trotsky, Castro and Che Guevara, among other heroes of the communist movement, designed and painted by various artists with close ties to the Cuban and Nicaraguan regimes. The work is dedicated to "victory for the Cuban and Nicaraguan revolutions."

Part of the funding for this bizarre celebration of totalitarianism came from New York's taxpayers — via the New York State Council of the Arts.

New York taxpayers might well wonder if there isn't a better use for the money the government takes from their paychecks than this exhibition.

Clearly this mural has nothing to do with encouraging artistic innovation. Its purpose is clear: to present these dictators as heroes. They are por-

trayed in the cult-of-personality tradition that was imposed throughout Eastern Europe during the latter part of the Stalin era — this mode, of course, is still pervasive in places like Cuba and North Korea.

This is hardly surprising: Among those who produced the mural are the director of the Sandinistan Association of Cultural Workers and a member of the Cuban Artists Union, who came up to New York in order to contribute a 15-foot-high portrait of Fidel Castro.

What is surprising is that Gov. Mario Cuomo would want to spend money from the state's treasury on this kind of display. While he certainly doesn't share the political values of those who put together the mural — not to speak of the dictators it celebrates — his arts council doesn't seem to understand that the glorification of totalitarianism is deeply offensive to many New Yorkers.

Whether or not it's appropriate to inflict such a mural on the sensibilities of ordinary New Yorkers is, by itself, an open question. We rather doubt that a mural depicting, say, Adolf Hitler would be deemed appropriate even if it were displayed on private property.

That public funds were used to subsidize this unseemly effort settles the issue, as far as we're concerned. The mural should be removed.

Exhibit Q

DAILY NEWS

220 E. 42d St. New York, N.Y. 10017

JAMES HOGE, *Publisher and President*JAMES P. WILLSE, *Editor* MICHAEL PAKENHAM, *Editorial Page Editor*

A timely monument, with missing pieces

NEW YORK IS FULL of people who still cling passionately to the doctrines of Karl Marx. Now they have a monument of their very own. It's the south wall of the home of Pathfinder Press Inc., a publisher of left-wing books and pamphlets, located at 410 West St. It now sports a six-story-high "Pathfinder Mural" measuring 6,000 square feet.

The mural, a garish specimen of Socialist Realism at its most vulgar, is a celebration of Marx and his many followers. It's littered with faces. Dozens of recognized heroes of the left. Hundreds of anonymous members of protesting crowds, many of them bearing U.S. *Out of (You Name It)* banners hoisted high, wide and handsome.

Among those present:

■ Vladimir Lenin, Marx' chief disciple, the man who turned Mother Russia into the Soviet Union.

■ Leon Trotsky, Lenin's right-hand man.

■ Fidel Castro and Che Guevara.

Quite a monument. Fine timing, too. In Washington, West German Foreign Minister Hans-Dietrich Genscher brought President Bush a piece of the Berlin Wall. And in New York, the Pathfinder Mural, a salute to the men who by their ideas and examples and actions made the Wall possible and necessary, is unveiled.

Outrageous? Not really. The people who painted the Pathfinder Mural, after all, were all sufficiently naive or cynical — or so contemptuous of human life and liberty — to have believed in the promises of Karl Marx in the first place. Why be surprised that they've failed to grasp the news that is sweeping the world? Marx is dead. The long, bloody show is over.

Except that it isn't over yet. Not in Cuba, anyway. And certainly not at 410 West St., where the Pathfinder Mural was unveiled last Sunday. Pete Seeger, that inimitable songster of Stalinism, was there, banjo in hand, leading the crowd in left-wing ditties. And Steve Clark, director of Pathfinder Press, had the last — indeed, the untoppable — word. "It's a tremendous victory," he said of the unveiling. "There's no greater symbol of freedom than Fidel Castro and Che Guevara."

IF YOU GO IN for black comedy, that's got to be the most hilarious howler since W.C. Fields finally went home to Philadelphia. Otherwise, it's a lie against history. A blood libel of the human race, of mass homicidal proportions. And since at the very center of the Pathfinder Mural is a printing press bearing the motto *The truth must not only be the truth... it must be told*, truth-telling is in order:

Fidel Castro, with help from Che Guevara, has been responsible for the execution of thousands of innocent Cubans during the course of his vicious regime. He also imprisoned, under the most brutal, dehumanizing conditions, an additional 100,000 political dissenters, according to Freedom House, a New York-based organization that monitors political and civil liberty around the world. That in a country of 10 million people — 1% of the total population. In the U.S. that would translate to locking up 2.4 million Americans.

Among the dead and imprisoned were poets, painters and even the mildest expressers of democratic yearnings. The kind of people who, if they lived in New York, would be free to celebrate Marx' and Castro's brutalitarianism on walls. The kind of people who, if they lived in New York, would know better.

There are a number of faces on the wall that don't belong there. Faces of men and women who never countenanced the slaughter and repression in which the main players reveled — and still revel in. Martin Luther King is so libeled. As is Malcolm X.

NOT PRESENT, IRONICALLY, is Josef Stalin, Lenin's heir, the spiritual godfather of and role model for Castro, Guevara & Co., the greatest mass murderer in modern history. The man who killed off 10 million farmers and hundreds of thousands of party members for fun and power. Too bad Steve Clark and his team of artists were unable to work Stalin in. Ah, well, nobody's perfect. And besides, there wouldn't be room for every murderous totalitarian despot in history if you nationalized every wall on the West Side.

So give credit where it's due. And do make a point of visiting the Pathfinder Mural. After all, you helped pay for it. The New York State Council on the Arts forked over 500 bucks. For which reason you might consider dropping a line of complaint to the New York State Council on the Arts. It seems that the artists who created this colorful, cheery celebration of mass political murder, slavery, repression and human misery omitted two other things.

At the very top, dead center, big, they should have painted in seven-foot-high black letters the following:

R.I.P.

And then, at the bottom, maybe a little larger:

NEVER AGAIN.

Exhibit R

IN THE UNITED STATES DISTRICT COURT
IN AND FOR THE SOUTHERN DISTRICT OF FLORIDA

HARVEY K. McARTHUR, PATRICK O'REILLY,
MIAMI SOCIALIST WORKERS' 1985 CAMPAIGN,
J. DOE, individually, R. ROE,
individually, S. SOE, individually

Plaintiffs,

vs.

JIM SMITH, individually, and
as Secretary of State, State of
Florida, DOROTHY W. GLISSON,
individually, and as Deputy
Secretary of Elections, PENNY G.
LAZZARA, SYLVIA BOOTHBY, CAROL B.
CHIRA, EUGENE A. CRIST, DR. ROBERT
HUCKSHORN, DR. ANNE E. KELLY,
and ISAAC WITHERS, individually,
and as members of the Florida
Elections Commission,

Defendants.

MIAMI
DIVISION

Case No.
85-3070-
CIV-KING

STIPULATION

The parties, through counsel, file this stipulation which sets forth the facts upon which there is agreement, and which outlines the facts area of disagreement for the Court. Counsel for the parties met in Tallahassee, Florida on September 8, 1988, and based upon the discussions at that time were able to agree on the facts which are not in dispute, and were able to further narrow the issues involved in this case. It now appears that this case may be resolved on cross motions for summary judgment.

1. This is an action for declaratory and injunctive relief against the enforcement of certain recordkeeping, reporting and

disclosure provisions of the Florida election laws. The plaintiffs are associated in various capacities, or seek to associate with, the Socialist Workers' Party (hereinafter "SWP"), a small and unpopular political party. The challenged provisions of the election laws, which are set out in the Complaint, require the plaintiffs to report information which would disclose their identity to election authorities, who are required in turn to make this information public. Plaintiffs contend that there is a reasonable probability that compliance with the challenged provisions would subject the plaintiffs to threats, harassment and reprisals from either government officials or private persons.

2. The defendants agree that the reporting of the information required by the challenged statutes would subject the plaintiffs, and others who associate with, or seek to associate with, the SWP, to a reasonable probability of threats, harassment or reprisals from private persons. Thus, there is no material issue of fact on the question of the danger, in Miami, of publicly associating with the SWP. The question of whether there is a reasonable probability of threats, harassment or reprisals by government officials against those who associate with the SWP is still contested, at least in part. The defendants agree that, to the extent that existing judicial decisions have recognized that those who have associated with the SWP have been threatened and harassed by governmental authorities, such activity has occurred. However, the plaintiffs and the defendants do not agree on the present situation: whether there is a reasonable

probability of threats, harassment or reprisals by government officials against those who associate with the SWP at the present time. The plaintiffs contend there is, and the defendants contend there is not.

3. It appears that summary judgment is appropriate notwithstanding this disagreement because this contested issue of fact is not material. Although proof of government harassment would strengthen the plaintiffs case, the agreement that there is a reasonable probability that those who associate with the SWP will experience private threats, harassment or reprisals, appears to be sufficient to present the only legal issue in this case for resolution. That issue is the applicability of the constitutional protection recognized in similar election cases to this case. The plaintiffs claim that the First Amendment renders the challenged statutes unconstitutional as applied to them, because if the plaintiffs comply with the challenged statutes, there is admittedly a reasonable probability of threats, harassment or reprisals against them. The defendants contend that the constitutional protection sought by the plaintiffs is inapplicable because the election at issue here was a nonpartisan election.

4. There is no issue concerning the requisite government action for First Amendment protection. It is uncontested that such action exists by virtue of the fact that the statute requires the collection and public release of information that private parties can then use to do harm to the plaintiffs. Thus, if the constitutional protections sought by plaintiffs apply to a

case like this, then government action has a chilling effect on the plaintiffs' constitutionally guaranteed freedom of association, and the challenged statutes are unconstitutional as applied. Therefore, it does not appear that it is necessary to have a trial on the contested issue of the extent of government threats, harassment or reprisals, unless this Court believes that such a trial should be held.

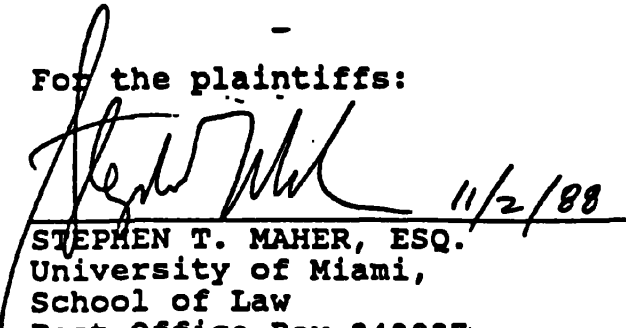
5. The contested legal issue in this case was joined when the defendants raised this matter as their second affirmative defense, titled "Estoppel." The defendants no longer assert, as they did earlier in these proceedings, that the plaintiffs action is estopped on a second basis: because the SWP has refused to register as a minor party as provided by Florida law. This point was raised as the defendants third affirmative defense, and was titled "Equitable Estoppel II." The defendants also abandon their first affirmative defense, titled "Failure to Exhaust Administrative Remedies." Thus the narrow legal issue that remains to be decided in this case is whether the constitutional protections recognized in Buckley v. Valeo, 424 U.S. 1, 96 S.Ct.612 (1976) and Brown v. Socialist Workers' '74 Campaign Committee, 459 U.S. 87, 103 S.Ct. 416 (1982) are applicable in the context of a nonpartisan election.

6. The parties stipulate and agree to the authenticity and admissibility of all documents contained in this record, including newspaper and magazine articles, and request the Court to consider them as evidence in this cause. Some of the newspaper and magazine articles of special interest are included

in an appendix to this stipulation. The parties further agree that the Court should consider the copy section 8 and 9 of the City of Miami Charter, which is in the appendix as evidence. The parties agree that the parties are properly named and described in the complaint, as modified by subsequent motions and orders of this Court adding and dropping parties, and by the order denying the plaintiffs' motion to certify the class. The current case style accurately reflects the parties to the course. The parties also agree that the plaintiffs have the standing to bring this action, and that the Court has jurisdiction over the defendants to grant the relief sought, should the plaintiffs prove they are entitled to relief.

WE AGREE TO THE ABOVE STATED TERMS:

For the plaintiffs:

 11/2/88
STEPHEN T. MAHER, ESQ.
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(305) 284-2812 (or)
(305) 284-3292
Counsel for Plaintiffs
And Cooperating Attorney
of the American Civil
Liberties Union
Greater Miami Chapter

For the defendants:

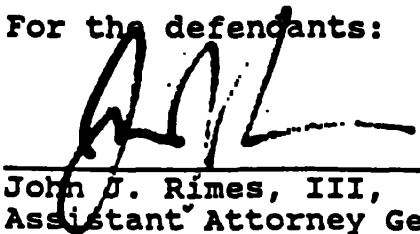

John J. Rimes, III,
Assistant Attorney General,
other than Defendant Hirai,
Room LL-04;
The Capitol,
Tallahassee, Florida 32301

Exhibit S

Check terrorism, or else

A bookstore in North Miami was the target early Monday of two firebombs that caused small fires outside the store and smoke damage inside estimated at between \$500 and \$1,000. A powerful pipebomb exploded on May 27 outside the Continental National Bank in Little Havana, injuring three people slightly and causing heavy damage to the building.

On the surface there are considerable differences between the two events, but the similarity is of much greater importance. Both seem to be the result of political terrorism of the kind that has thrived in Dade County in recent years and continues to threaten the rights and the lives of everyone but the terrorists themselves.

In the daily scheme of things in Dade County, the firebombings outside the Militant Book Store at 1237 NW 110th St. seem inconsequential. The bookstore, which serves as a local office for the Socialist Workers Party and which sells leftist literature, has been threatened before, mostly by anonymous people often representing themselves as belonging to extreme elements of the right wing.

It would, however, be a mistake to write off the firebombings as an insignificant attack by one small political group against another. The firebombings are an attempt to intimidate Americans and to prevent them from exercising their constitutional rights. In that sense, the attacks are directed at the rights of everyone, whatever their political persuasion. If terrorists get away with violent acts against one target today, their targets will increase tomorrow. In addition, even the sanctity of free enterprise is threatened when violence is used against a business to make a statement about political differences.

The pipebomb that exploded outside the Continental National Bank office shows what can happen when terrorism is escalated. That bombing shows how important it is for federal, state and local law enforcement officials to intensify their efforts to halt terrorist activities; how vital it is for community leaders to speak out against such acts rather than encourage them by remaining silent or by unnecessarily fueling rabid anti-Castro fervor that often provides a cover for extortionists and other criminals masquerading as freedom-fighters.

The bomb was left under a tree so the force of the blast would go toward the building. It was simple luck that no one was injured seriously or killed as the powerful explosion shattered windows and shook nearby buildings while causing structural damage to the bank.

Terrorism is the enemy of law and political freedom, and in that sense it is everyone's enemy. Recent events indicate Americans can no longer take comfort by pointing a finger at Belfast, Beirut and Rome and saying terrorist acts cannot happen here. They have, and they are, and unchecked, terrorism will occur more frequently and do greater harm to people, property and democratic institutions.

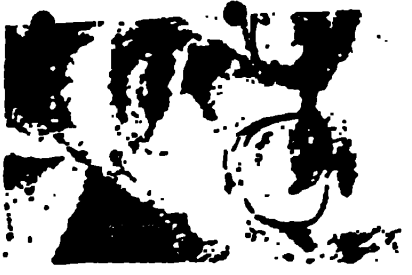
JAMES M. COX / Publisher, 1975 MIA
DAVID BEARD / Editor
NORMAN L. LEACH / Editor
LEE REICHERT / Managing Editor
LARRY J. DOW / Circulation Manager

Wednesday, June 15, 1983

Miami News

Continental

Exhibit T



By PAUL ANDERSON
Herold Staff Writer

TALLAHASSEE — Miami Beach state Sen. Jack Gordon, president pro tempore of the Florida Senate and chairman of its Education Committee, has been excused from the extended legislative session to make a 25-day trip to Europe that started Saturday.

In a letter to Senate President Curtis Peterson, Gordon (D., Miami Beach) said he has "a long-standing commitment during this period to meet the family of my daughter's fiancé who reside in England."

He asked to be excused from his duties on conference committees, where the session's hottest issues are being negotiated, and any other official Senate meetings.

"At the beginning of the regular session, I was optimistic that the Legislature would finish its work on schedule June 3; however,

that end has not been reached even within the 10-day extension," his letter states.

"As a family man, I know that you understand the priority I place on this request."

Gordon will be out of the country until July 5.

Senate rules say senators can be excused "for just cause."

Peterson excused Gordon and has taken the unusual step of putting himself in Gordon's place as chairman of the conference committee on education issues, many of which grow out of Peterson's proposed package for increasing school standards, known as the RAISE bill, an acronym for Raise Achievement in Secondary Education.

Among other things, the Senate plan would lengthen the school year and toughen requirements for high school students to graduate.

The House has similar goals, but claims the Senate has not adequately financed its package. House leaders want to increase taxes to raise money for new school programs.

Gordon referred to the education plan in his letter to Peterson:

"After having spent one year on the Governor's Commission on Secondary Schools with you and then developing the RAISE bill, I sincerely regret not being able to celebrate with you the fruition of our education package, which I believe will take Florida to national prominence."

Senate journals show that Gordon, 61, who has been in the Senate since 1972, has had an excellent attendance record but for several weeks during last year's session, when he suffered a heart attack and was hospitalized.

ians said they had launched
ety craft Friday from a small
the coast of Port-au-Prince.

MIAMI HERALD
JUNE 4, 1983
Pg 6D 5D

Coast Guard stops boat off Haiti, ns 76 travelers bound for Miami

COAST GUARD — were brought aboard the cutter Active. Through an interpreter, they told an immigration and Naturalization official that they were on their way to Miami to look for jobs. None of them had documents required for immigration.

"None of them claimed they were looking for political asylum," said Coast Guard Cdr. James Sutherland.

The Haitians said they had launched their rickety craft Friday from Ile de Lagonave, a small island off the coast of Port-au-Prince, Sutherland said. The boat

was riding just a foot above the water when it was stopped, he said.

Sutherland said that after they are processed, the Haitians will be given \$20 in cash from the Red Cross and transportation back to their homes.

It was the largest group of Haitians intercepted off the coast of Haiti since January 1982, when the cutter Gallatin stopped the sailboat Grace Adieu and returned 106 Haitian immigrants.

Sutherland said he did not know what happened to the sailboat.

Leftist book store firebombed

By KEITH L. THOMAS
Herold Staff Writer

Two fire bombs, tossed at a left-wing book store in North Miami early Monday, caused small fires and smoke damage, police said.

The bombs set off two small fires outside the Militant Book Store at 1237 NW 119th St. The smoke damage was inside, police said.

They said a rock was also tossed through one of the three paneled windows in the front of the store. The bombs were thrown at the windows but fell short, police said.

Harvey McArthur, a volunteer who works at the store, estimated the damage at \$500 to \$1,000.

The store, which has been in North Miami for two years, sells leftist books and publica-

tions. It also serves as a local office for the Socialist Workers Party, a national political group that fielded a presidential candidate in 1980.

McArthur said people identifying themselves as members of the Ku Klux Klan and anti-Communist Cubans had phoned the store making threats on numerous occasions. He said this was the first bombing.

In July 1981, the store was burglarized shortly after it received a bomb threat, police said. McArthur said cash and a typewriter were taken.

North Miami police are still looking for suspects in Monday morning's bombing.

Police said the fire bombs were beer bottles, containing flammable liquid. One had a wick and the other a plastic lighter.

Exhibit U

Democrat, and a popular one at that. In contrast to 1984, when Al Gore wouldn't even say whom he was voting for, everybody is making some sort of effort on behalf of the national ticket this time.

THE MOST IMPORTANT player in all this, and the dominant figure in Tennessee politics at the moment, is Governor Ned Ray McWherter, 58. McWherter is an immensely tall and stout, red-faced, sleepy-voiced good ol' boy with perfect populist pitch. He used to be known as Hoss, on account of his striking physical resemblance to the character of Hoss Cartwright on the "Bonanza" television show. Now that he has put on a bit of extra weight, statehouse regulars refer to him as Jabba the Hutt—not to his face, but with a certain respect. McWherter has hit upon exactly the right combination of public works liberalism and cultural conservatism to suit Tennessee's Reagan Democrats. He is not especially innovative or imaginative, but even Republicans speak with awe of his common touch. "McWherter will influence our lives far into the next century," Chivers said reverently.

The Republicans hope McWherter will limit his support for Dukakis to a few token gestures. "I think McWherter is going to do what he has to do, but I don't see that as being much more than just lip service," Thomas told me. "I can't see Ned McWherter putting his big fat neck on the block for Mike Dukakis."

"That's crap," says Goelz, who set up his headquarters downtown expressly to be within walking distance of McWherter's office. "The reality is, the governor has done everything we've asked him to and more." As evidence, Goelz points to the fact that McWherter has lent the Dukakis campaign the services of his most valued fund-raiser, Harlan Mathews.

To find out for myself, I went to see the great man in his office at the state Capitol. I noted that he had agreed on very short notice to talk to me, a representative of a magazine that does not exactly blanket Tennessee and of which he claimed never to have heard, and said it was evidence that he either wants to help the national ticket or is underworked.

"Well, I'm not underworked," McWherter said. "I endorsed Governor Dukakis because I had met him in governors' conferences and gained a great deal of respect for him."

McWherter then treated me to a sample of his populist pitch. "The biggest reason I warmed up to Dukakis is education. That's my No. 1 priority and Dukakis tells me it's his, too. I grew up where there was a lot of illiteracy and a lot of substandard housing, and where you couldn't get a doctor. If you got sick, too bad. I believe every person ought to have the ability to read a newspaper every morning or afternoon and maybe a verse of the Bible at night. Every person should have decent housing. And any person suffering pain should be treated with health care. Education, health care, housing, roads, jobs. Those are the five issues I ran on. I'd add the environment to that. And Governor Dukakis has told me he is going to recommit the

federal government to those goals. I had a long talk with him about it."

I pointed out that Dukakis's views on certain social issues do not square with McWherter's.

"Those are emotional and moral areas," he said. "They're like whether you're a member of one church or another. You don't choose a president on that basis."

"What about the Pledge of Allegiance business?"

"I understand why Governor Dukakis vetoed that bill. I think it's a very false issue. Especially when those fellows they're always trying to get me to listen to, the media consultants, get it all twisted up. It's like school prayer. I believe you should pray any time you want to. But I don't believe you should impose it. I don't believe you need a lot of laws to do those things, a lot of government meddling."

I asked McWherter what he thinks of the Republican candidate for president.

"To be honest, I don't know that much about George Bush," he replied. His voice was all syrupy innocence, but in the middle of his meaty face, eyes as small and hard as BBs squinted at me from under bushy white eyebrows. "I know he's got a big home on the seacoast up in Maine. I know he made some money in Texas. I know he held a number of positions in the government that I've read about. I don't know if he got real broad experience from that or if he just held those jobs temporarily till they could get someone else. I'm sure he's a fine gentleman. But I don't know a lot about him." Pause. "And I know a lot more about pheasants than I do about Quayle." Loud guffaws from aides on a nearby couch.

If enough Tennessee voters get exposed to that kind of talk, Dukakis might even carry the state.

The calculation behind McWherter's country-boy naïveté does nothing to detract from its sly charm. Dukakis, however, is a city boy—worse, a suburb boy. He hasn't got a populist bone in his body. But if enough friends like McWherter talk enough of that kind of talk, Dukakis might possibly get whooshed right up into the White House, rapturously.

HENDRIK HERTZBERG

POSTCARD SOUTH FLORIDA

MIAMI NICE?

THE WORD around Miami these days is that the area has survived the growing pains of cocaine shoot-outs (1978-79), Marielito Mayhem (1980), and the Crooked Cops (1985)—all three referred to as "our ancient history"—and has comfortably settled into the social columns of *Vanity Fair*. National journalists once fixated on the morgue now write about rock star Ron Wood's nightclub and who's who in the art deco district.

But to local residents who read the morning *Herald* or the afternoon *News*, the new Miami has lost none of its old quirky barbarity. I offer the following tidbits gathered from the two papers between May 20 and July 16 as evidence.

There's the grocery-cart accident of Saturday, July 2. Tony Martin, a shopper at Publix on NE 167 Street, was pushing the cart with one hand and holding his leather purse with the other, when the purse slipped from his grasp and dropped to the floor, setting off his derringer.

A regular bullet might have fired off into the cheese section, and that would have been that, but Martin had hollowed his out and filled the cavity with metal shrapnel fragments held in place with Teflon tape. Some of the fragments hit Martin's daughter, three-year-old Tamara Guerrero, who was sitting in the cart. Luckily, she survived. Although Martin said he was sorry, and that he was only trying to protect his family, the police charged him with two felonies: carrying a concealed weapon without a permit and possessing illegal ammunition.

People in another part of the country might have said, "What a stupid man for carrying a concealed weapon into a grocery store." In Miami they said: "What a stupid man for not obtaining a concealed weapons permit." Down here anybody can get one—even Lisa Taradine.

Taradine, who had already pleaded guilty to an earlier felony, showed her permit to federal agents as they arrested her for trying to swap machine guns for cocaine.

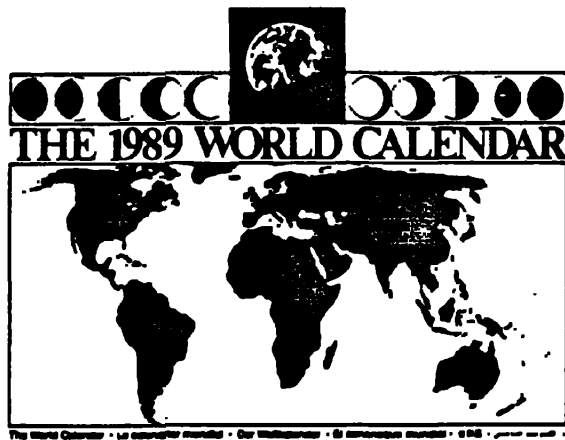
Since felons aren't supposed to have concealed weapon permits, the agents wondered how she got hers. It turns out that because she'd volunteered a guilty plea, the judge took the felony blot off her record, so she had the same right as the next Floridian to bear concealed arms. It seems that 2,000 other convicted Florida felons have been extended the same courtesy.

Still, it's unfair to say Miami has no gun control. There are rigid cultural strictures: guns are used only in personal and economic disputes, and bombs are used in political disputes, or at least they were during the old one-bomb, one-vote period.

Things have quieted down since, but then again, four bomb stories showed up in the papers in May. Actually, one was only a faux bomb. On Friday, May 27, the bomb squad evacuated the Panamanian consulate after a suspicious thermos bottle was discovered in the hallway. It turned out to be empty, but the maintenance person who called in the alarm said he naturally assumed that a thermos was a bomb. That tells you something.

A day earlier a real bomb had gone off in the garage at the home of Miami-Dade Community College professor Maria Cristina Herrera. It coincided with a conference on U.S.-Cuban relations, sponsored by Herrera, which was about to be held at the Sheraton Brickell Point Hotel. The hotel promptly canceled the conference, and the 150 courageous participants drove under tight security to the University of

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Miami Faculty Club, where the meeting was convened.

Another real bomb was set off under a car in the parking lot at the Cuban Museum of Art and Culture. Factions on the museum's board of directors are evenly divided on the question of whether a local Cuban museum of art ought to admit that there is art in Cuba, or simply ignore it in favor of the works of the exiles. This bomb, everyone realized, was a response to the museum's having displayed art by painters who have something to do with Cuba.

Meanwhile, a trial about a fourth bomb was going on in a Miami courtroom. The Christic Institute brought a civil lawsuit attempting to prove that the bomb that blew up Edén Pastora's press conference in Nicaragua in 1984 was part of a conspiracy that involved Albert Hakim, Oliver North, Richard Secord, John Singlaub, the *contras*, George Bush, and assorted international drug dealers. To the local audience, the most amazing thing about the Christic bomb trial is that the courtroom wasn't bombed. North, the *contras*, and international drug dealers are Miami heroes. Trying them here is a bit like trying the Rosenbergs in Russia. I don't know why the Christics thought they could get away with it. In any event, the case was dismissed for technical reasons before it even got to a jury.

Speaking of Russia, here's a dispatch from the Tallahassee bureau: Republican State Representative Luis Morse of Miami has spoken out against literacy on the grounds that literacy encourages communism. In floor debate over a bill that would allow Florida college students to teach adults to read, Morse argues that that's exactly what Castro did in the mountains and the Sandinistas did in Nicaragua.

IN OTHER local political news, it came out on July 16 that former County Manager Sergio Pereira has signed on as a political analyst for TV Channel 51. That got everybody wondering if he'd wear those same stolen suits that he and numerous other VIPs bought at bargain prices out of cardboard boxes in a residential apartment set up to resemble a store.

Pereira didn't lose his job over the hot suits, or for having lied on his résumé. In fact, he was awarded the job after lying on his résumé. His resignation came only after several reporters unearthed his personal interest in some lucrative land deals that required rezoning, and that he'd forgotten to mention during all the hearings.

Hence the most promising news of the month: Metro Considers Zoning Disclosure Plan. To prevent future Pereira-like incidents, property owners who might benefit from rezonings must tell who they are. Alas, on the same page as the Ketchup Bandits, who swiped suitcases at the airport after distracting the owners by spraying them with condiments, we learn that the county commission defeated the proposal because it might have a "chilling effect" on local real estate investment.

There's another important zoning story: the Leon family's variance. The question is whether statues of Santa Barbara and La Virgen de La Caridad, surrounded by eight-foot brick towers in the Leon's yard at 2920 SW 129th Street and stuck too close to the neighbor's property line,

should be allowed to stay. After losing the argument, much of which had to be conducted in Spanish, the Leons promised to put the statues in the house.

Speaking of La Virgen de La Caridad, at the church where the original is kept, hundreds of supporters of Orlando Bosch, the "terrorist" pediatrician implicated in numerous anti-communist bombings, gathered once again to protest his possible deportation. Among those present was Maria DeSillers, mother of Ronnie DeSillers, the young man whose struggle against liver disease got national attention. Generous citizens sent hundreds of thousands of dollars to pay for his three transplants. Ms. DeSillers's son died last year, and lately a lot of people have been wondering what she did with the leftover donations. What's been reported so far is \$10,850 for jewelry, \$5,797 for new clothes, \$13,500 for a BMW, \$1,657.18 for a beeper, \$3,102.50 for a cellular car phone, \$1,882 to florists, and \$25,000 to lawyers defending her against allegations that she used the funds for her own purposes. Altogether she's gone through \$270,000, spending it just "as Ronnie would have wished."

In a financial sidebar, an IRS spokesman assures us that people who donated to the DeSillers fund will still get their tax deductions, even if the money was spent on jewelry.

Speaking of jewelry, police are looking for the jewelry stolen from the courtroom at the trial of Rolando Garcia. It was part of the evidence that disappeared during the lunch recess. Garcia is accused of helping former policeman Manuel Pardo kill nine people as the beginning of a crusade to rid the world of drug dealers. Police say that Pardo is a drug dealer.

That's about it from South Florida. Weird things happen elsewhere, especially in New York, but perhaps these highlights will remind advocates of the new Miami that the ancient city still lives.

JOHN ROTHCHILD

John Rothchild is a free-lance writer based in Miami.

THE MONEY CULTURE

JAPANESE TAKEOUT

BRUCE WASSERSTEIN and Joseph Perella were once just a couple of investment bankers doing deals at First Boston. Now, that is no longer true. On January 26, 1988, Wasserstein and Perella resigned from First Boston after a nasty fight with First Boston CEO Peter Buchanan. They set up their own deal-making shop. On July 28 they announced they had sold a 20 percent stake in their new enterprise to the Japanese investment bank Nomura for \$100 million.

That puts a value of \$500 million on Wasserstein, Perella

Exhibit V

The Miami Herald

JOHN S. KNIGHT (1894-1981)

JAMES L. KNIGHT, Chairman Emeritus

— RICHARD G. CAPEN, JR., Chairman and Publisher

ROBERTO SUAREZ
Associate PublisherPHIL DeMONTMOLLIN
President and General ManagerJIM HAMPTON
EditorJANET CHUSMER
Executive Editor

JOANNA WRAGG, Associate Editor

PETE WEITZEL, Managing Editor

Get the bombers!

TERRORISM in its ugliest form struck Miami again this week when an anonymous thug, motives unknown, bombed the home of Miami-Dade Community College Prof. Maria Cristina Herrera at 3 a.m. In the house were Dr. Herrera, who has been lame from birth and uses a walker; her 79-year-old mother; and a house guest. A fire might easily have trapped them.

They weren't harmed, but freedom of expression was. The Sheraton-Brickell Point Hotel knuckled under to the threat, canceling the Thursday conference sponsored by Dr. Herrera's 19-year-old Institute of Cuban Studies. The University of Miami rose to the occasion and welcomed the conference on U.S.-Cuba relations to its campus. Thus the value of a strong academy was proved again to the community and to the nation, which read of the bombing and the hotel's cancellation with disbelief.

The bombing coincided with a telephoned threat against local Immigration and Naturalization Service (INS) Director Perry Rivkind. Later, after WQBA commentator Tomas Garcia Fuste condemned the bombing on the air, the station had a bomb scare. The telephone

TERRORISM IS INTOLERABLE

caller linked the INS threat to deportation proceedings against Orlando Bosch, who was convicted of anti-Castro terrorism in 1968. All this renewed terrorism occurs amidst deep unrest in the Cuban-American community over evidence of a growing Washington-Havana rapprochement.

Some Miamians blame the violence on secret agents from Cuba, but the FBI suspects anti-Castro terrorists. The FBI is investigating links among nine local bombings in the past year in which the targets arranged travel, shipped packages, sold paintings, or otherwise had contacts with the island.

However, law enforcement needs help from the community. Someone knows the perpetrators. Someone knows where the explosives were bought. Let anyone who knows tell the FBI.

This cowardly crime is a blot on all of us. UM's quick response removed part of the blot, but only a prompt arrest of this bomber will expunge the image of Miami as a violent city menaced anew by skulking terrorists.

Fight another day

DIED: REP. Ron Silver's proposed referendum to establish a seven-day wait for handgun purchases. Where: the Florida House of Representatives. When: May 25, 1988. Cause of death: lack of legislative courage.

Rest in peace? No way. Rest assured: This course to sanity will be resurrected.

Pro-handgun ploy to thwart Mr.

...which gained surpris-

...he session, succeed-

...Johnson, Panama

...onent of the

...gun laws,

...Silver bill

FOR 7-DAY HANDGUN WAIT

Mr. Silver's battle was not in vain. The support that his proposal received proved that Floridians aren't happy with the new lax laws, which allow county-optional 48-hour waiting periods. Bills are pending in both houses to let county commissions, by a simple majority, adopt a wait of three business days.

Will courage fail a majority of legislators again? Even the gun lobby isn't fighting the amendment; it hopes

AN ADDED VIEW



THE READERS' E

DUI 'acc

To The Editor:

With the tragic accident i 27 people in Kentucky as a drunk driver, and with t accident that left Miami Pol William Craig brain-dead, i

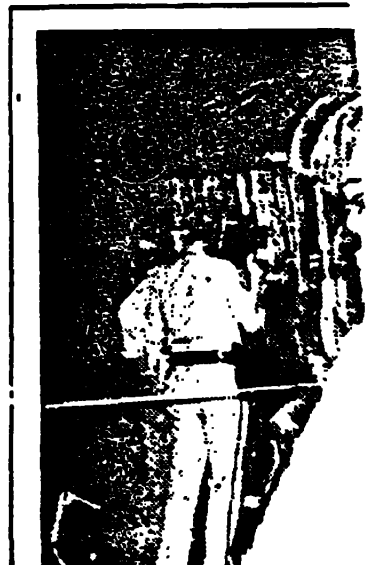


Exhibit W

Right-wing violence in San Jose denounced

BY LYNDA JOYCE
AND SAM MANUEL

SAN JOSE, Calif. — Labor officials, civil rights figures, Vietnam veterans, and other political activists here are demanding that city officials take action to prosecute those responsible for a right-wing violent attack on the Socialist Bookstore and offices of the Socialist Workers Party and Young Socialist Alliance.

On April 27 the socialists sponsored an educational conference at their offices on the history of the Vietnam War. A group of rightist Vietnamese thugs gathered outside the meeting, unsuccessfully trying to intimidate people from attending it.

The next day, April 28, 200 of the goons showed up at the socialists' offices, chanting, "Kill Communists!" and "Communists out of San Jose!" The police refused to disperse the mob and the 17 socialists inside had to be evacuated from the building in police cars.

The very next day a broad news conference to protest the attack was held here. Attending were Arnold Hart of the San Jose Rainbow Coalition; Saul Wachtler, chairman of the Santa Clara Communist Party; David Wald, of the Peace and Freedom Party; Sol Zeltzer, of the National Lawyers Guild; Thomas Izu, of the Nihon-machi Outreach Committee, a Japanese-American civil rights group; and Lynda Joyce and John Harris, of the SWP.

Izu told the press conference, "Our experience as Asian people in this country has taught us why it is so important to stand up against any infringement of our democratic rights. From the lynchings of the first Chinese immigrants to the U.S. and the concentration camps for Japanese-Americans during World War II, to the recent murder of journalist Henry Liu, killed [by Taiwanese government agents] because of his dissenting political views, our experience has taught us to speak out against acts of violence such as the one perpetrated yesterday."

A series of protest statements were read from labor officials, who condemned the right-wing attack.

"I believe I join the sentiment of the majority of persons in San Jose who have

no sympathy for such behavior," said a message from Peter Cervantes-Gautschi, business agent of the Santa Clara Central Labor Council.

"This union must insist that you respond to the recent attack by right-wing Vietnamese against the Socialist Bookstore," declared a letter to the city's mayor from Stephen Manginelli, vice-president of Amalgamated Transit Union Local 265. "The similarities that the union movement has experienced with thugs attacking free speech and assembly are very obvious."

Messages also came from Richard Anderson, Post 5888 commander of the Veterans of Foreign Wars; Sandra Kelly, a member of the executive board of International Association of Machinists (IAM) Local 562; Carlos Avitia, president of International Moulders Union Local 164; and Harry Adams, president of IAM Local 565.

Adams took on the argument that the thugs were simply holding a "demonstration," exercising their "right to free speech." "The attempts to physically intimidate, harass, and attack people attending a Vietnam War program and at the Socialist Workers Party office far exceed the bounds of free speech and expression and instead enter the same corrupt and undemocratic territory that characterized the defeated South Vietnamese government," he said.

John Harris, representing the SWP, explained to the press that the aim of the right-wing attack was "to silence anyone who is opposed to U.S. foreign policy and the drive toward war. If this act of violence is not answered, then it will escalate."

Background to assault

Right-wingers here targeted the SWP and YSA because they were sponsoring the April 27 educational conference on the war in Vietnam.

Prior to the conference, the socialists had received phone threats against the meeting. They contacted the police and mayor's office, demanding that they guarantee the rights of those attending the meeting. But only two cops were sent the day of the conference. A gang of 30 to 50 Vietnamese thugs gathered outside the office where the conference was being held. They chanted, "Kill communists!" and sought to provoke a confrontation. The cops refused to halt their harassment, but a well-organized defense by meeting organizers assured that the conference came off successfully.

Seventeen people were in the offices the next day when a mob of 200 right-wingers returned. They arrived at 1 p.m., the time set for the weekly meeting of the SWP branch.

Earlier in the day, several hundred of the goons had met in a park to mourn the 10th anniversary of Vietnam's victory. The media reported they marched in military attire and burned a Vietnamese soldier in effigy.

According to the police, the mob of 200 came directly from the rally to the socialists' offices. The police, however, sent no officers to the scene. Chanting, "Kill Communists!" and "Communists out of San Jose!" the Vietnamese thugs began beating on the office door. A projectile crashed through the window, whizzing past the head of one person inside.

The socialists called the police and contacted local unionists, other activists, and the press, who also telephoned the cops. It took 15 minutes for the police to respond. They sent only two cops.

Instead of dispersing the mob outside, the police entered the bookstore to "investigate" what had happened. Finally, four more squad cars arrived, and the socialists were evacuated from the building as the right-wingers chanted and shouted epithets from across the street. By this time, news reporters and several concerned activists had arrived on the scene.

Thugs allowed to enter office

After the socialists had been driven away from the area, the police escorted one of the Vietnamese thugs into the SWP offices. This was a further outrageous violation of the socialists' rights. The cops' excuse for this intrusion was that the goons refused to leave until they were assured that no "communists from Vietnam" were in the building. But this was simply the pretext for gaining entrance to the offices for their own purposes.

Not a single one of the attackers has been arrested thus far. Each day since the attack, gangs of from 15 to more than 50 thugs have gathered across the street from the bookstore in an attempt to intimidate people from visiting the socialist offices. The city has taken no action to halt this harassment.

'Right to free speech'?

From the beginning city officials and the cops have tried to justify their failure to defend the rights of the socialists by claiming

the Vietnamese are simply exercising their "right to free speech." The day of the educational conference, when organizers asked the police to stop the harassment by the goons, they responded that the thugs had "the right to express their opinions."

On April 29, following the protest news conference, SWP representatives Lynda Joyce and Cathy Sedwick met with a group of city officials, including Mary Ellen Icter, press secretary to the mayor; Gregory Larson, legislative coordinator for the mayor; Norma Sánchez, the mayor's administrative aide; and Thomas Seck, one of the cops on the scene during the attack on the previous day. Seck repeated the line that the right-wingers were simply exercising their democratic rights.

It was clear at that meeting that the mayor's office had not planned any investigation into the attack on the socialists. The fact the meeting took place, however, indicated the pressure already building for official action to defend the socialists' democratic rights.

Growing support

Since then, the socialists have addressed a meeting of the city council. In addition, they have been able to speak before meetings of the National Organization for Women, Veterans of Foreign Wars, the local Central America solidarity committee, and an anti-apartheid sit-in at San Jose State University. They have received a warm response.

A number of the socialists work at the nearby FMC plant, which manufactures tanks for the army. On Monday morning, when their coworkers learned of the weekend attack, many were outraged, par-

ticularly at the behavior of the police and the fact that the cops took one of the right-wingers into the socialists' offices. Dozens of FMC workers, who are members of the IAM, volunteered to phone the mayor's office, send letters of protest, or circulate petitions demanding that the socialists' democratic rights be protected.

Activists throughout the Bay Area have been calling the San Jose SWP to express solidarity and ask what they can do to help.

The socialists are calling for immediate city action to halt the disruption of their offices by the gangs that continue to gather outside, and for a full investigation and prosecution of those responsible for the attacks on them. They are urging trade unionists, Blacks, Latinos, antiwar activists, civil libertarians, and all other supporters of democratic rights around the country to immediately telegram the mayor of San Jose.

Protest messages should be sent to: Mayor Thomas McEnery, Office of the Mayor, 801 North 1st St., San Jose, California 95110 or Joseph McNamara, Chief of Police, 201 West Bishop Street, San Jose, California 95110.

Copies should be sent to: San Jose SWP, 46 1/2 Race Street, San Jose, California 95126.

As IAM official Harry Adams explained, the issue in this defense campaign is "whether people have the right to conduct peaceful and lawful political activities in San Jose without the threat of violence."

Adams declared, "I will stand with the progressive people of this city and make it known that we will not be intimidated, that we will not stand aside and watch quietly while some are attacked..."

Exhibit X

LA CIUDAD DE MIAMI PROVEE FONDOS PARA EVENTOS DONDE SE VENDE PROPAGANDA COMUNISTA

La Ciudad, el Alcalde y los

Comisionados tienen la palabra

El domingo pasado en el área denominada Pequeña Haití, se desarrollaron actos en El Festival de Haití.

Se efectuaron en medio de gran alegría. La ciudad de Miami, se adhirió a ese evento aportando según se dijo aproximadamente 35.000 dólares.

En uno de sus habituales recorridos, la candidata a la Alcaldía Gely Gutiérrez visitó el domingo el festival, recorriéndolo en toda su extensión, recibiendo el beneplácito de los habitantes del área.

Así, derrochando simpatía, Gely Gutiérrez se mezcló —como siempre le gusta hacerlo— entre el pueblo. Cual no sería su sorpresa, cuando descubrió a varios vendedores ambulantes que en plena acera vendían libros y literatura comunista, advirtiéndose entre estos, textos de Fidel Castro y el Che Guevara.

La señora Gely Gutiérrez acudió a todas las emisoras hispanas y americanas, expresando su repudio a ese infamante comercio y exhortando a la ciudadanía a pedir explicaciones a la ciudad de Miami por otorgar este tipo de permisos.

¡¡Una verdadera vergüenza! LA CIUDAD, EL ALCALDE Y LOS COMISIONADOS TIENEN LA PALABRA.

A continuación, unas declaraciones de la Sra. Gely Gutiérrez.

Estoy denunciando, cívicamente, un hecho atentatorio a los ideales democráticos, ocurridos en la tarde del domingo 23 del actual en la barriada denominada "Pequeña Haití".

Aprovechando, astutamente, como hacen los comunistas, de una actividad cívica en la mencionada barriada el llamado Partido Socialista de los Trabajadores, situó una tarima para vender libros eminentemente comunistas.

Cuando en este instante están llegando a este país cadáveres de ciudadanos norteamericanos, asesinados vilmente por las guerrillas comunistas en El Salvador, cuando el mundo vive pendiente de la tragedia que supone los secuestrados en el avión de la TWA, estos comunistas, enemigos de la libertad y la democracia, conspiran abiertamente contra la estabilidad de esta nación, púa y fero del mundo democrático.

Como ciudadana, más que como aspirante a la Alcaldía de Miami, alzo mi voz de protesta frente a esta afrenta ocurrida en la tarde del domingo pasado y a la vez, demandando de las autoridades competentes, una exhaustiva investigación para encausar a los responsables de la concesión de permisos a elementos comunistas, que trabajan para esclavi-



La Sra. Gely Gutiérrez explicó al pueblo el insólito caso de la venta de material subversivo en una comunidad anticomunista...

Firmado - GELY GUTIERREZ



La candidata a la Alcaldía Gely Gutiérrez se retira en gesto de desaprobación, con miembros de su staff, los señores Edgardo Meneses, Lalo Borges y Alvaro Castaño.



La candidata a la Alcaldía Gely Gutiérrez revisando el material y libros comunistas a la venta.



En demostración de civismo y militancia Gely Gutiérrez llamó a la policía para que tomaran medidas.

(Translation)
p. 5, La Nacion, Friday, June 28, 1979

THE CITY OF MIAMI PROVIDES FUNDS FOR EVENTS WHERE
COMMUNIST PROPAGANDA IS SOLD

The City, the Mayor and the Commissioners Must Answer

Last Sunday, a series of incidents occurred at the Haitian Festival in the area known as Little Haiti.

They occurred in the midst of a big celebration. The City of Miami was part of this event by providing- it was reported- 35,000 dollars.

On one of her usual tours, Mayoral Candidate Gely Gutierrez visited the festival on Sunday. She covered it from end to end, meeting with the approval of the residents of the area.

Thus, exuding charm, Gely Gutierrez mixed with the people, as she always likes to do. Imagine her surprise when she discovered several street vendors who were selling communist books and literature on the open sidewalk. She noted works by Fidel Castro and Che Guevara among this literature.

Ms. Gely Gutierrez contacted all the Spanish and American radio stations to repudiate this infamous sale and to urge the citizenry to demand explanations from the City of Miami for having granted this type of permit.

~~This is a disgrace!~~ THE CITY, THE MAYOR AND THE COMMISSIONERS MUST ANSWER! (This was a true disgrace!)

Below are some statements by Ms. Gely Gutierrez.

I am denouncing, as my civic duty, an unlawful attack on democratic ideals that occurred on the afternoon of Sunday, June 23, in the district known as "Little Haiti".

Taking clever advantage- as communists usually do- of a civic activity in the above-mentioned district, the so-called Socialist Workers Party set up a stand to sell openly communist books.

At this time, when the bodies of U.S. citizens who were cruelly assassinated by communist guerrillas in El Salvador are arriving in this country, when the whole world awaits in suspense at the tragedy awaiting the hostages in the TWA airplane, these communists, enemies of liberty and democracy, openly conspire against the stability of this nation, the shining beacon for the free world.

More as a citizen than as a candidate for Mayor of Miami, I raise my voice in protest against this outrage that occurred last Sunday afternoon. At the same time, I demand that the competent authorities launch an exhaustive investigation to bring charges against those responsible for granting permits to communist elements, who work to enslave us, as they have done in Cuba, Nicaragua, and other countries ~~xxx~~ that suffer the state of the terror imposed by International Communism.

signed: Gely Gutierrez

photo captions: Mayoral candidate Gely Gutierrez reviewing communist books and materials on sale.
In a demonstration of civic duty and militancy, Gely Gutierrez called the police to take action.

Exhibit y



ERICA BERGER / Miami Herald Staff

Skeletal skyline

It's out with the old and in with the new along Miami's skyline as the demolition of the Lindsey Hopkins building nears completion

just north of downtown. The Venetia condo tower can be seen where the walls of the tumbling-down building once stood.

Bombing fails to halt U.S.-Cuba forum

MIAMI HERALD
5/27/88 1A

By CHRISTOPHER MARQUIS
Herald Staff Writer

A Miami conference on the future of U.S.-Cuba relations was disrupted Thursday when a bomb exploded at the home of a sponsor and a hotel suddenly closed its doors to the event.

The controversial meeting was moved to another location during a day of upheaval in which police evacuated Spanish-language radio station WZLX, search of another bomb, the name of an unknown terrorist group found its way into police blotters, and the local head of the immigration service stepped up security in his office.

The conference itself was a microcosm of emotions dividing the exile community as three panelists, including former political prisoner Jorge Valls, advocated some form of dialogue between the United States and Cuba.

"We must respect ourselves as people, [adopt] a state of reflection and conscience, then begin dialogue," said

Cuba, Panama win seats on human rights panel

By MARY VOBORIL
Herald Staff Writer

UNITED NATIONS — Cuba easily won a seat on the prestigious United Nations Commission on Human Rights Thursday, a diplomatic coup that could help Havana fend off charges that it is a habitual rights violator.

Panama also was voted a member

of the rights panel and a third open seat went to Colombia.

The vote on Cuba coincides with plans for a visit by a special U.N. team to the nation, which has been accused by the United States of widespread rights violations.

U.S. diplomat Lewis Amselem deplored the vote, saying that Cuba, which last held a seat on the panel

four years ago, will "degrade the commission and damage its prestige." His Cuban counterpart called the vote a solid victory, "proof that Cuba has the support and respect of the international community."

"If they thought Cuba was violating human rights, they wouldn't have

Please turn to RIGHTS/16A

Valls, a poet who now lives in New York. "I'm not afraid of the word."

The day began with a 3 a.m. explosion outside the home of Maria

Cristina Herrera, a Miami-Dade Community College professor who heads

Please turn to FORUM/24A

Elderly must bear new Medicare costs

By GREGORY SPEARS
Herald Washington Bureau

WASHINGTON — Congress is poised to enact the biggest expansion of Medicare since the program's creation in 1963, and for the first time it would require recipients to pay the full cost of the new benefits.

The catastrophic health care bill would expand coverage of hospital care and doctors' bills and add a provision to pay for some outpatient prescription drugs beginning in 1991. The program is expected to cost \$1 billion over five years.

to their monthly premium next year. They now pay \$24.80 a month. For most, the higher premium would automatically be subtracted from their Social Security checks.

But a bigger share of the bill's costs would be borne by the 40 percent of Medicare recipients with the highest income. They would be required to pay a \$22 surcharge for every \$150 in federal income taxes they owe, up to a maximum additional payment of \$800 in 1989. In 1993, the cap would be \$1,050.

THE SENATE'S HEALTH CARE COMMITTEE

COST OF CARE

To finance catastrophic health care:

- MOST recipients of Social Security over age 65 would see their benefit check trimmed each month.
- THE 31 MILLION people now enrolled in Medicare Part B, a voluntary program that helps pay doctor bills, would have \$4 added to their monthly premium in 1989. They now pay \$24.80 a month. For most, the higher premium would be subtracted from their Social Security checks.
- A BIGGER share would

Soviets consider drastic cl

By MICHAEL PARKS
Los Angeles Times Service

MOSCOW — The leadership of the Soviet Communist Party on Thursday proposed far-reaching political reforms that would remove the party from the day-to-day administration of the government and the economy in an effort to broaden democracy and increase productivity.

Put forward by party leader Mikhail Gorbachev and approved

Treaty maneuver / 7A Summit wrangling / 11D

by the policy-making Central Committee, the proposals would totally transform Soviet society in what Gorbachev has called "a revolution without bullets."

The heart of reform would be the transfer of power in its entirety, from the bottom through

the top," strengthen ties, enter negotiations. The attempt to influence effective conference successfully is als would Please

Toddler got wish, then died in da

Knight-Ridder News Service
EAST AFRICA PHIA

When 3-year-old Stephen

Hut they made sure he sat with the help of Mike-A-Wi

27

1988

FORUM/From LA

the Institute of Cuban Studies. The Miami-based institute, together with the School of Advanced International Studies in Washington, D.C., were co-sponsors of the conference, USA-Cuba, Another Perestroika?

A man who said he was a member of *Alianza de la Intransigencia Cubana* — *Alianza de Uncompromising Cubans* — later claimed responsibility for the blast.

After the bombing, the Sheraton-Brickell Point Hotel closed its doors to the conference, which was then moved to the faculty club at the University of Miami.

"You are welcome here," U.M. President Edward Foote II told the group of five panelists and about 100 invited guests who arrived in a car caravan after gathering at Herrera's house.

"First of all, you are welcome because you are members of our community," Foote said. "The second reason you're welcome is because this is the United States of America."

"Right on," shouted Herrera, 53, who was not injured in the bombing. Also unhurt were her mother, Maria, 79, and houseguest Luis Perez, 32. The explosion left a 10-inch crater in the driveway, destroyed a garage door and blew out the windows of a rental car parked nearby.

In an early-morning call to WQBA-AM radio station, the man claiming membership in the *Alianza* said the group would take similar action within the next 72 hours against Immigration and Naturalization Service District Director Perry Rivkind if anti-Castro militant Orlando Bosch is not released.

Rivkind, who was notified by the FBI, said security at his office was beefed up.

Half an hour after the call at WQBA, radio station news director Tomas Garcia Fuste condemned the bombing on the air. Moments later, a caller said a bomb had been placed under Fuste's car.

The station, at 2828 Coral Way, was evacuated and police brought in an explosives-sniffing dog. After a two-hour search, police concluded the threat was a hoax.

Freddy Yuen, an officer with the Miami police bomb squad, said this was the first time they had heard of the *Alianza*. The FBI is investigating.

The bombing was the second in four weeks to highlight a raging debate among Miami exiles over apparent moves toward rapprochement between the United States and Cuba.

On May 3, a pipe bomb shattered the glass front door of the Cuban Museum of Arts and Culture, which has been embroiled in controversy over whether to show or sell works by artists who have not broken with the Castro regime.

At the Sheraton-Brickell Point Hotel, general manager Bill Ripple said he decided to cancel the institute's forum Thursday morning in light of the bombings.

"I guess it was the events over the last couple of weeks and then the event at Mrs. Herrera's home," he said. "We were concerned for the safety of our guests and employees."

At 1 p.m. Thursday, conference



C.M. GUERRERO / Miami Herald Staff
Carlos Alberto Montaner, seated, watches as Wayne Smith addresses conference on the future of U.S.-Cuban relations.

organizers and guests arrived at the home of Herrera, whom they found more determined than ever to host the event.

"This makes it more important than ever," said Herrera, disabled from birth, who pushed her walker slowly through a knot of reporters in her driveway.

On the ficus-shaded lawn of her house, visitors surveyed the damage and differed in where they lay blame.

"If I were a policeman, I'd look for the hand of Castro in this," said Carlos Alberto Montaner, editorial page editor of *El Nuevo Herald*, who was one of the five invited panelists.

But Wayne Smith, director of Cuban studies at the School of Advanced International Studies in Washington, said, "This is the work of right-wing Cuban exiles who are trying to tell us we can't debate this issue in Miami."

Smith, who served as head of the U.S. Interests Section in Havana during the Carter administration, said he was outraged by what he called an assault on the First Amendment.

"I spent four years in the United States Marine Corps and one year in Korea fighting so that this country could harbor the right for freedom of expression," he said.

Montaner and Smith were principal adversaries later, at the faculty club, as panelists began to explore the dangers and advantages of what all perceived to be a thawing of relations between the United States and Cuba. Also speaking Thursday were Valls, University of Miami Professor Enrique Baloyra and Monsignor Bryan Walsh.

While all speakers said they detect a softening in the U.S. stance toward Cuba, Montaner was the only panelist to say the Reagan administration policy up

to now has been effective. He criticized conciliators who would offer the Cuban president "a window of hope."

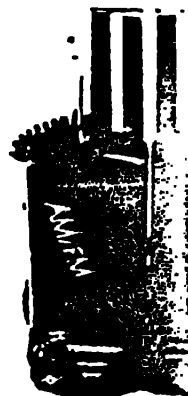
Smith countered that the United States' longstanding policy of containment had proved a failure and had to be replaced. "Today our efforts to isolate Cuba are pathetic," he said. Smith said the two countries have a variety of issues to address — travel, immigration, Central America — that should not be determined by political posturing.

Monsignor Walsh, who founded his career in Miami caring for refugee children in the first years after the revolution, said the only way for U.S. Catholics to counter the anti-religious zeal on the island is "through patient and painstaking negotiation and, yes, dialogue" with the government.

Baloyra, in turn, exhorted Cuban Americans to rethink their methods, to embrace the U.S. political system over "romantic" dreams of armed liberation of the island.

"What to say about those valued patriots that win faith for their anti-communism by intimidating handicapped children, dancers and singers, athletes, painters and artists?" he said in a declaration that brought the audience to its feet in applause. "Who needs to maintain the image of an angry, unthinking and reactionary exile? Who benefits, in the end, if we continue to be the political laughing stock of the hemisphere?"

Herald staff writer Marie Betancourt contributed to this report.



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SEARS CORRECTION!

Car's Thursday, May 26th Supplement page 24
the SuperCard low shows the corrected distribu
ion and it, not an Ad Section low Page 11, the
correct low price for the 21700 VAC is \$57.00.
We apologize for any inconvenience

Exhibit Z

THE WALL STREET JOURNAL

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EASTERN EDITION

MONDAY, JUNE 2, 1966

PRINCETON, NEW JERSEY

... 50 CEN

What's News

Business and Finance

RECESSED between 7 and the striking Communications Workers union. Negotiators also rejected concessions a proposed 8% wage increase over three years. The strike ended to affect service in the

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World-Wide

ISRAELI REPLACED its attorney general amid a dispute over two Arab deaths. The Israeli cabinet announced the replacement of a little-known Tel Aviv judge to replace Attorney General Yitzhak Zamir, who had ordered an unprecedented criminal investigation of senior officials in the Israeli intelligence service. Zamir sought the probe following allegations that Israel's security chief Moshe Dayan and his associates had covered up the 1954 deaths of two Palestinian who hijacked a civilian bus.

Prime Minister Fares and Foreign Minister Shamon have both opposed the policy inquiry ordered by Zamir, saying it would harm national security.

MARCOS LOYALISTS CLAIMED with earlier outside Manila's National Assembly. About 1,000 supporters of the deposed leader, some shouting "Marcos again," broke through police lines and streamed onto the grounds of the assembly, where a 40-member commission is to convene today to begin writing a new Philippine constitution. Marcos' factionists were reported. The incident followed a three-hour rally attended by more than 20,000 people who declared Marcos the legitimate president.

The protest was considered the largest against Aquino, who abolished the constitution after taking power in February following a military revolt.

U.S. officials said Reagan's renunciation of the unratified SALT II arms agreement increases the likelihood that he also will rethink limits on defensive weapons, such as the 1971 anti-ballistic missile treaty, that stand in the way of his space-based antimissile plans. (Story on Page 2)

Thousands of Poles demonstrated in Krakow and Gdansk to protest the arrest of Solidarity underground leader Zdzislaw Bekas, which was announced Saturday by Warsaw's Lech Walensa, founder of the trade union, urged Solidarity supporters to carry on the struggle against "invasionism" in Poland.

Fighting raged between Shiite Muslims and Palestinians devastating three large refugee camps in Beirut. The fighting continued despite a cease-fire negotiated by Iran and Algeria. At least 54 people have been killed and 300 injured in two weeks of fighting.

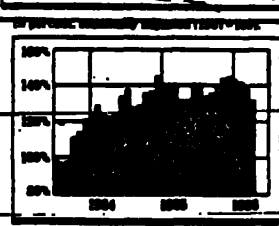
European space officials said there isn't any indication that customers will cancel contracts following Friday's failure of an Ariane rocket that destroyed a \$60 million satellite. Ariane was targeted to blow up its first Ariane 2 rocket soon after lift-off from French Guiana when the third stage failed to ignite. (Story on Page 2)

Reagan urged Congress to pass administration-backed proposals to limit damage awards in product-liability suits. In a speech to the U.S. Chamber of Commerce Friday, Reagan asserted that the product-liability laws have been so "twisted and abused" that they "impede our economic life." (Story on Page 4)

Lawmakers in Florida appear poised to force a rollback of insurance premiums. The state House of Representatives has passed a measure that would roll back premiums 4%. The state's Senate, meanwhile, has approved a bill that would eventually reduce them to levels prevailing Jan. 1, 1964. (Story on Page 4)

Federal prosecutors said a senior Postal Service executive who pleaded guilty Friday

Help-Wanted Advertising



HELP-WANTED advertising fell in April to 125% of the 1967 average from 135% a month earlier, the Conference Board reports.

Freedom of Speech Is a Debatable Issue For Many in Miami

Some Say Cuban Community Muzzles Dissent in Its Zeal To Confront Communism

By RONALD L. MALKIN
Staff Reporter of THE WALL STREET JOURNAL
MIAMI — A hundred and thirty-five years after the First Amendment guaranteed freedom of speech, many people here are still debating whether that was such a good idea.

Alfida Baracaldo, for one, thinks it wasn't. "Here you can say anything," Mrs. Baracaldo, who fled her native Cuba in 1961, complains from atop a stool in her shop in the Little Havana section of town. "There are too many freedoms. Someone can speak out against Reagan—and no one stops them."

Mrs. Baracaldo's sentiments largely reflect the rampant itching of Fidel Castro's regime that pervades the Cuban community in Miami. "Communism is like a cancer," she says. "Those who advocate it should be stopped."

Vigilance on Communism
But her words also reflect a view, stemming just below the surface here, that anyone expressing sentiments deemed as even vaguely communist should express them elsewhere or not at all. Occasionally, Miami's more tolerant elements hold over in full display, amid public debate over whether free speech really is ensured in Miami.

In one incident last month, a bomb threat forced a Hispanic theater company to cancel a comedy by Cuban-born playwright Delmar Fria that was to be presented as part of a Hispanic festival. Having worked in the 1970s for closer relations between Cuba and the U.S., Miss Fria, who describes herself as a Democrat, was apparently considered a pro-Castro leftist. The cancellation followed several tense days during which two other groups threatened to pull out of the festival if Miss Fria's play was performed. The play ultimately was read at a local university, but only after the room was searched for bombs and the audience scanned by metal detectors. Plainclothes policemen stayed on hand through the reading.

That controversy came on the heels of violent rival public rallies over the issue of U.S. aid to the Nicaraguan Contra rebels. Members of the pro-Contra rally turned against the anti-Contra group, pelting them with eggs, rocks and an occasional glass bottle. The police brought in a riot squad to control the mostly Cuban-American pro-Contra crowd; still, the 200 anti-Contra demonstrators had to be pulled out of the area. Afterward, some in the pro-Contra crowd rushed to where the anti-Contra had been and burned their signs.

The Outlook

Newest Baker Plan: Getting It to Work

WASHINGTON

Treasury Secretary James Baker's new seven-nation economic coordination plan made a political splash at last month's Tokyo summit. Now comes the hard part—getting it to work.

The U.S. is poised to press ahead with the accord, which is designed to breathe new life into existing machinery for finance ministers of the seven summit countries to discuss ways to make their economic policies more compatible. U.S. officials already have begun sounding out their counterparts in the other six—West Germany, Japan, Britain, France, Canada and Italy—about holding a subcommittee-level meeting to map out an agenda. Finance ministers could set their first policy coordination session by fall.

Under the proposal, finance ministers would meet once each year to devise a strategy for making their domestic economic policies more compatible. They'd also try to agree on ways to measure their progress against "forecasts" for an array of basic economic indicators from inflation rates to growth. If a country strayed off course, it would be obliged to try its best to correct the situation. The rationale is that if the larger countries were more in sync, then exchange rates would stabilize more, and pressure to replace the present floating exchange rate system would abate.

Beyond that, however, the U.S. has no clear idea of how to carry out its own proposal. Washington hopes to use the new forum to prod West Germany and Japan to stimulate demand at home so they can absorb more imports—and help the U.S. rid itself of its trade deficit. Essentially, however, Mr. Baker plans just to play it by ear. He'll use the new mechanism for whatever he can get—be it further coordinated interest rate cuts to occasional intervention in the currency markets, if need be.

Especially, the initiative has its share of skeptics. Henry Han, a former National Security Council strategist now at George Washington University, notes that the industrial countries have had a similar mechanism in place before and have little to show for it. A finance ministers' forum has been reviewing the larger countries' economic performance for years. Mr. Baker's new plan gives the exercise new political impetus—with backing from the heads of government—and commits countries to use their "best efforts" to take needed steps. But there's still no more than there ever was to make an erratic country change its course.

Moreover, Robert Lawrence, a Brookings Institution analyst, points out that while the accord sets up a new review mechanism, it conspicuously doesn't specify what the seven countries will have to do to make their economic policies more compatible—a question that's bound to prove far more difficult to resolve. "The summit countries will have conflicting goals," Mr. Lawrence says.

The major question now is: How long will it take for the finance ministers to translate the new mechanism into the kind of economic policy changes that will help stabilize exchange rates? "What they've done is create an instrument," says Robert Marston, a former State Department strategist currently at Goldman, Sachs & Co. "How they use it remains to be seen."

By the Treasury's own admission, making the services won't come easily. What can

Solid Growth

Despite Big Problem U.S. Economy Seemingly Healthy

WASHINGTON

Living Standards Match Of Prior Postwar Decade. Inflation, Other Ills But Many Doubts Lingering

By ALFRED L. MALKIN
Staff Reporter of THE WALL STREET JOURNAL

PHILADELPHIA — The U.S. economy is in a state of solid growth, but many doubts linger. Inflation, ballooning trade bill of goods, double-digit interest on payment rates, black-brooding of business debt—all these are some of the various symptoms of fiscal doom.

Today, by many measures, the last belated American wartime households through the 1970s as 1940s have abated. Joblessness and interest rates are down—pace up. Wealth, as measured by the securities portfolios and other one record levels.

Yet the drumbeat of deficits or budget deficits, the doctors no longer permit to the 1970s. The 1970s have abated. Joblessness and interest rates are down—pace up. Wealth, as measured by the securities portfolios and other one record levels.

What is going on? Has the U.S. finally returned to good times as the perceived improvements in brief remission of a still-crisis case?

Surprising Health
A close analysis of available figures shows that, despite the pessimism, the economy is surprising for the extent that such things as output, most Americans are better today than ever before—better, in fact, than in the 1970s; better than in the 1970s, at least in many respects the housing 1960s.

From one month to the next, only a behavior continues to be in the line of a looming recession after signs of accelerating expansion—a long-term perspective, to be sure, unequivocally, to be strong.

"When I look back over the last of our economy since early in World War II era, I'm struck with the expansion of overall activity has been, even with slumps and persistent worrying to how something would go terribly says Geoffrey H. Moore, a lean economist who directs the C International Business Cycle Res Columbia University.

Postwar Gains
The economy's long-term growth has been encapsulated, perhaps, in the low. The income income rises in low climb of after-tax income, are on a per-capita basis, to adjust inflation growth, and in terms of the 1967 purchasing power, to adjust it. The spending columns, annual just, traced consumer outlays. A study regard this statistic as the all measure of individual living standards for 1966 are full-year estimates.

on its economy. Because
yrs. the country's econ-
a turning point after 36
spansion.
dollar Friday soared 1.5%
yen and reached its high-
mid-February against
mark.
(Story on Page 17)

ers would get 16.1% of the
fuel tax cuts provided by
Finance panel's tax meas-
uring more than \$200,000
receive an average 4.7%
their tax bills.
(Story on Page 2)

de deficit narrowed to
in April, as imports fell
figures suggest that a
overturn in the U.S. trade
liberal soon.
(Story on Page 4)

confirmed its free trade
with Canada but said it
down from a new 35% tar-
iff shingles. Meanwhile,
it is considering measur-
ing the tax.
(Story on Page 4)

others struck after reject-
ing producer's final
er. But the Steelworkers
or union told members at
remain on the job.
(Story on Page 2)

would pay \$50 million
posed settlement with
hat invested with E.S.M.
Securities. The account-
audited the financial
of the failed firm.
(Story on Page 2)

uge, which Friday com-
quisition-of-Crocker Na-
1,500 employees.
(Story on Page 4)

Clayton's suitors dis-
hold a 5.93% stake in the
t. Bear, Stearns & Co., and
which have offered \$85
be firm, hope to derail a
sh and stock offer.
(Story on Page 4)

withdrew its \$100 million
from Ted Bates. The
reality because of a con-
sultant & Saatchi, which is
also, undercuts the strat-
emergers.
(Story on Page 4)

ty supply's surge lowers
after easing by the Fed
nists say. The rise is seen
at business activity will
using credit runs the risk
inflation, they say.
(Story on Page 21)

based firms hope to revive
F-102 proposal to begin
nent securities trading an

Story on Page 20

ure 151,200,000 shares. Dow
is 127.71, off 5.44; transpor-
76.38; utilities 120.62, off 6.38.
Jones 28 bonus 10.13, off 0.35.
9; Dow Jones futures index
spot index 126.22, up 0.89.

TODAY'S CONTENTS	
1	International News 21
2	Money & Bonds 21
3	Energy & Resources 21
4	Transportation 21
5	Real Estate 21
6	Health & Food 21
7	Science & Technology 21
8	Arts & Entertainment 21
9	Obituary 21
10	Calendar 21
11	Index 21

through police lines and survived
into the grounds of the assembly, where a
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Federal prosecutors said a senior Postal
Service executive who pleaded guilty Friday to
charges of embezzlement and receiving
illegal payments will be a central witness in
a criminal inquiry of the agency's contract-
ing practices. The official, Peter Von, in-
stantly resigned as vice chairman of the
board of governors. (Story on Page 2)

The FBI in Los Angeles arrested a 24-
year-old former stockbroker trainee for dis-
seminating drug capsules made by Sunlight
Brockman Corp. in an apparent stock-manipulation
plot. The man, Edward Arlen
Marina, was arraigned Friday and ordered
held without bail. (Story on Page 1)

Anti-nuclear demonstrators staged pro-
tests in Central Europe while officials in the
Soviet Union said radiation from the Chernobyl
nuclear accident was still high enough to
require strict controls in the immediate area
around the power plant.

African delegates at the U.N. reached an
accord with donor nations under which the
international community agreed to work to
end Africa's economic problems. The pact,
which outlines an African recovery pro-
gram, was negotiated at the close of a special
U.N. session on the continent.

Dist. Perry Ellis, 45, fashion designer,
Friday, in New York, of viral encephalitis.

To Confront Communism

By SONIA L. MARANO
Miami Herald Staff Reporter of The Washington Post
MIAMI — A hundred and ninety-five
years after the First Amendment guaran-
teed freedom of speech, many people here
are still debating whether that was such a
good idea.

Alicia Baracaldo, for one, thinks it
wasn't. "Here you can say anything," Mrs.
Baracaldo, who fled her native Cuba in
1961, complains from atop a stool in her
shop in the Little Havana section of town.
"There are too many freedoms. Someone
can speak out against Reagan—and so one
sleeps then."

Mrs. Baracaldo's sentiments largely re-
flect the rampant loathing of Fidel Castro's
regime that pervades the Cuban commu-
nity in Miami. "Communism is like a
cancer," she says. "Those who advocate it
should be stopped."

Vigilance on Communism

But her words also reflect a view, stir-
ring just below the surface here, that
anyone expressing anticomunism deemed as
even vaguely communistic should express
them elsewhere or not at all. Occasionally,
Miami's more tolerant elements hold
over in full display, amid public debate
over whether free speech really is ensured
in Miami.

In one incident last month, a bomb
threat forced a Hispanic theater company
to cancel a comedy by Cuban-born play-
wright Osvaldo Rivas that was to be pre-
sented as part of a Hispanic festival. Hav-
ing worked in the 1970s for closer relations
between Cuba and the U.S., Mr. Rivas
who describes himself as a Democrat, was
apparently considered a pro-Castro leftist.
The cancellation followed several tense
days during which two other groups threat-
ened to pull out of the festival if Mr.
Rivas's play was performed. The play ul-
timately was read at a local university, but
only after the room was searched for
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That controversy came on the heels of
violent rival public rallies over the issue of
U.S. aid to the Nicaraguan Contra rebels.
Members of the pro-Contra rally turned
against the anti-Contra group, pelting them
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bottle. The police brought in a riot squad to
control the mostly Cuban-American pro-
Contra crowd; still, the 200 anti-Contra
demonstrators had to be hauled out of the
area. Afterward, more in the pro-Contra
crowd rushed to where the anti-Contras
had been and burned their signs.
Cuban-born Mayor

Xavier Suarez, elected last fall as the
city's first Cuban-born mayor, didn't alie-
viate concerns raised by the incident when
he referred to "Marxist groups" in the
anti-Contra rally and told the pro-Contra
crowd: "If these groups have the right
to be on the other side of the street."

Of course, Miami isn't the only Ameri-
can city where the expression of unpopular
views can cause a storm. But it is the
only large city where the biggest and most
vocal political bloc is represented by exiles
from a communist regime, with Hispani-
cans—mostly those of Cuban descent—mak-
ing up 40% of the population and more
than 40% of the registered voters.

The mayor, the police and many others
say Miami doesn't really have a problem
with free speech. Indeed, they say, some
Cubans in Miami are liberal, and many
younger Cubans don't share the fierce po-
litical convictions that their elders brought
with them when they began fleeing the
Castro regime in the 1960s. One resident,
Angel Castillo Jr., a lawyer and a Demo-
crat, says he never has a problem taking
an occasional job at President Reagan's as
a social function. "I don't find it a
life-threatening activity," he says.

But others contend that certain groups
Please Turn to Page 18, Column 6

Under the proposal, finance ministers
would meet once each year to devise a strategy
for making their domestic economic pol-
icies more compatible. They'd also try to
agree on ways to measure their progress
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markets, if need be.

Expectedly, the initiative has its share of
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dustrial countries have had a similar machin-
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The major question now is: How long
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kind of economic policy changes that
will help stabilize exchange rates?
"What they've done is create an instru-
ment," says Robert Stern, a former
State Department strategist currently at
Goldman, Sachs & Co. "How they use it
remains to be seen."

By the Treasury's own admission, mak-
ing progress won't come easily. West Ger-
many and Japan, for example, still are ad-
versely opposed to stimulating their econo-
mies. The finance ministers are almost cer-
tain to disagree even on the basic forecasts
for their countries' economic performances.
And Mr. Baker's push to make the whole ex-
ercise public—as a way to increase the pres-
sure for making policy changes—seems
likely to run into resistance.

Indeed, differences among the seven
summit countries are still so acute that the
Treasury secretary had to sidestep any real
substantive discussion in Tokyo in order to
push his coordination plan through. It was a
classic Baker tactic—to postpone the serious
policy fray while he strengthens his political
hand. But it's also a gamble: Time is run-
ning short.

As a result, many analysts believe
the biggest hope for the current Baker
plan lies in the international economic
dramatizing skills of Mr. Baker himself.
As the Treasury secretary already has
shown, those skills are considerable.
Over the past few months, Mr. Baker
has put together a five-country effort to
drive down the value of the dollar;
approved a plan to shore up the global
debt situation; and engineered an end-
a-half coordinated international interest
rate decision. This one will be more dif-
ficult, because it involves all of the in-
dustrial nations.

But Robert Soloman, former chief inter-
national economist of the Federal Reserve
Board, insists the new U.S. commitment
shouldn't be overdone. "If politically con-
servative guys... take the trouble to construct
this thing and sell it, I presume they're seri-
ous about it," Mr. Soloman says.

Meanwhile, William Cline, economist at
Washington's Institute for International Eco-
nomics, argues that the most important as-
pect of Mr. Baker's latest initiative is that it
underscores that the administration now is
prepared to take a more activist role in
managing the world economy, reversing the
maxim that exchange-rate levels should be
left entirely to the markets.

Currency traders ought to take note, Mr.
Cline adds.

that baffled American won
households through the 1970
1980 have abated. Jobs and
interest rates are down.
up. Wealth, as measured by
securities portfolios and other
record levels.

Yet the drumbeat of doubt
Budget deficits, the doubters
barely persist in the \$200 billion
the fight time since World War
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sumers are at historic high-
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sign of recovering, and Ameri-
cans productivity continues to lag.

What is going on? Has the
economy finally returned to good
the precrisis improvement
brief respite of a still-cr-
one?

Surprising Health

A close analysis of available
evidence suggests that, despite the per-
sistent fact, to the extent that such
gauged, most Americans are
today than ever before—better
than in the 1970s; better than a
border, at least in many respec-
the booming 1960s.

From one month to the next
any's behavior continues to be
less of a booming recession
signs of accelerating expansion
a long-term perspective, the
seems, unequivocally, to be
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"When I look back over the
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Postwar Gains

The economy's long-term
best encapsulated, perhaps, in a
low. The income column traces
war climb of after-tax income.
are on a per-capita basis, in ad-
justed growth, and in terms of
1982 purchasing power, to adjust
tion. The spending column, in
justed, traces consumer outlay.
always regard this statistic as the
all measure of individual living
Data for 1982 are full-year aver-

	Real Per Capita Income
1960	\$5,351
1970	\$7,200
1975	\$8,175
1982	\$10,750

Over the full three decades, a
shows, the average American's
come has risen about 94%. At
spending column indicates, in-
dividuals on the average have car-
ried 89%. In each of the earlier years
is added, the economy was in
some phase of the business cycle,
prone to be so now as well.

Consistent Increases

The table also shows that the
standard has been remarkably
constant from one decade to the
spending increase in 1960-69
slightly less than the 1960-70 gain,
and slightly more than the 1970-75
of 20%. Each 10-year interval also
recession as well as periods of
prosperity; since 1960, recessions in
in 1960-61, 1969-70, 1974-75,
1980-81.

An individual's perception of
conditions, of course, may not
have with readings given by economic
cal measures. Moreover, econom-
ic averages, which can obscure
of hardship and affluence. The de-
bate, for example, the econo-
mists' affecting many farmers in re-
cession.

Nor do the data show how
over the decades various indus-
tries of the country have fared.
pervasive pharmaceutical industry
with the emboldened steel industry
high-tech prosperity of Silicon Valley
the stagnation of the Great Lakes
belt.

And catchall statistics cannot
how circumstances change for p-
eople groups. Today's retirees
vastly better retirement benefits
compared to, say, the 1960s. Do-
young college graduates may find
a desirable job far trickier than
predecessors.

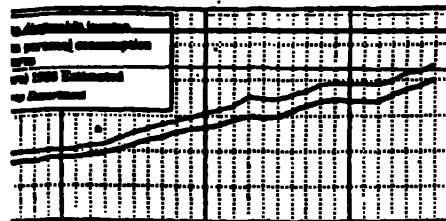
Such considerations may help
Please Turn to Page 18, Column 6

Seems Surprisingly Healthy

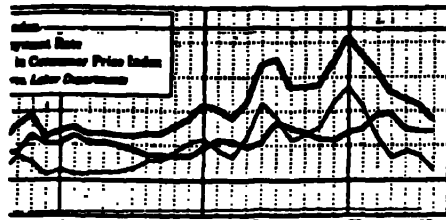
ny is Back on a Growth Track

Recent years apparently behind them, we are finally better off than ever before.

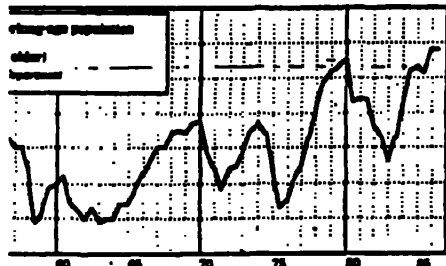
Income and spending are breaking records



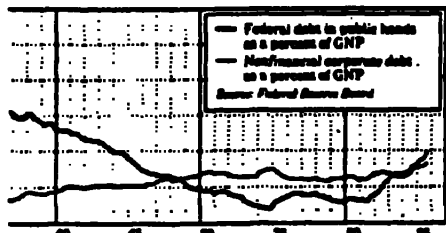
Index has moved down to single digits



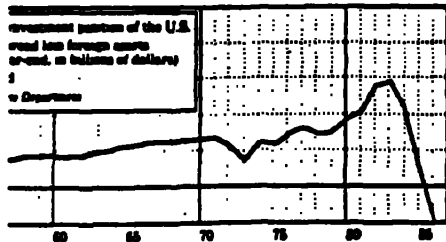
Portion of working-age Americans hold jobs



Rate of the economy is rising



Active U.S. is now a debtor nation



of jobs away from industries as manufacturing and building businesses as well. Finance, insurance, and government work, in terms of all non- of this year.

Goods- Service-
Interest Payments
13.7% 20.7%

1960s, fell to less than 5% in the late 1970s and now is up near 7%. Business spending on plant, equipment and other fixed investment has followed a similar pattern, dropping from about 11% of GNP 30 years ago to 9% in the 1960s and recently moving over 12%.

Towering Debts

Another long-term change—one greatly troubling many analysts—is the increase in debt in the economy. Federal Reserve Board Chairman Paul A. Volcker recently said a balance sheet showing that in just the

grow faster than income. Consumer installment debt outstanding, for example, now amounts to about 17% of personal income. Three decades ago, the comparable rate was 9%, and as recently as the mid-1970s, it was 12%.

Reversing such statistics, A. Gilbert Heston, an economist at Philadelphia National Bank, concludes that, despite all its gains over the years, the economy has become "leveraged up" by debt and "less able to absorb outside-to-withstand a job, such as a new recession."

Even without a recession, the debt pitfall is linked to other disquieting developments. Using data compiled by Don A. Brundage, the table below traces the number of failures per 10,000 companies and the total liabilities involved. The failure rate has soared in the past decade, after moving up and then down, while liabilities have increased relentlessly.

Failure Rate Per 10,000 Firms	Liabilities in Billions
1960	40
1965	45
1970	50
1975	100
1980	120

The latest failure rate, which has persisted in the early months of 1980, trails only that early in the Depression. The highest rate—114 failures per 10,000 companies—occurred in 1932. The record low—four per 10,000—was set in 1948.

Another troubling economic trend, analysts say, is the lagging productivity of labor. Productivity gains tend to offset added labor expenses that would otherwise result from rising pay levels. If a factory worker gets a 5% increase in hourly pay but produces 5% more widgets each hour, the percent cost of his labor remains the same. Over the current economic expansion, hourly output has risen at an annual rate of 1.7%, one-third the 5.9% average hourly pay rise in the period. The upshot is that unit labor costs have climbed 2.9% annually, on the average, even though the rate of pay increase has been the lowest for any postwar business upturn.

The lag in productivity is even more apparent when the U.S. record is compared with figures for other industrial nations. The table below, which is based on a recent Labor Department study, shows annual productivity gains for eight major countries. The U.S. performance is the weakest of all.

Average Annual Productivity Gain 1973-81			
Belgium	4.5%	Italy	3.9%
Japan	5.9%	W. Germany	3.4%
France	4.5%	Greece	2.3%
Netherlands	4.7%	U.S.	2.1%

Economists attribute the last-place showing in part to the dominant role of service-type jobs in the U.S. Normally, productivity gains are harder to achieve in the service sector than, say, in the factory, and services play a larger role in the U.S. labor market than in most others. Another factor, analysts say, is that many countries have been plowing more of their resources into capital investments that serve to spur productivity.

The weakened position of the U.S. in world markets is a factor in the sharp deterioration in its trade balance. Only a decade ago, the U.S. sported a \$4.2 billion surplus in its goods and services trade with other nations. In each of the past two years, in contrast, it had deficits exceeding \$100 billion. The pattern is continuing, even though, most analysts believe, the dollar's declining international value should eventually tend to make U.S. goods and services more competitive.

In the process, the U.S. has become an international debtor nation, a position unthinkable 20 or 30 years ago. Until mid-1980, the value of U.S. assets abroad still exceeded the value of foreign holdings in the U.S., as they had done since 1914. But since mid-1980, the balance has shifted, so that the value of foreign assets in the U.S. now exceeds that of U.S. assets abroad.

Many analysts see this situation presaging and fear that, in the long run, increased payments due foreigners on their U.S. holdings will tend to reduce American living standards. They also worry that if foreigners were to withdraw much of their investments from the U.S., American credit markets would suffer a nasty

Freedom of Speech Is a Debatable Issue For Many in Miami

Continued From First Page

and individuals encounter a persistent pattern of intimidation.

At a rally last year while President Reagan was attending a fund-raising event here, several people protesting the president's policies were threatened. Zann Perera, a 60-year-old engineer, says she was threatened by a Hispanic man who tried to knock her down. Then, she says, a crowd rushed toward her, screaming, "Comunisto/ Communisto!" she says: "I ran. We would have been pulverized. They were using real."

Last November, when a man and a child came to her home who had been kidnapped by Castro forces sought to discuss their experiences, their lecture was canceled at two Catholic high schools after parents protested and a bomb threat was received. Last April, Andres Gomez, who favors ties with Cuba, spoke at a Spanish-language radio station. A mob of 10 people jostled and chased after him as he emerged from the studio and was hurried to a waiting car by five policemen.

Maria Cristina Herrera, the executive director of the Institute for Cuban Studies, asserts that some of those who voice unpopular views have lived under constant threat. For her, the threats began after she endorsed closer ties between Cuba and the U.S. in 1980, she says, since Cuban-Americans started denouncing her on a Spanish-language radio station as a Castro agent sent to infiltrate Miami's academic community. There were numerous midnight telephone threats, and she says she was told there was a contract out for her life.

Later, she says, a group of Cuban-Americans tried unsuccessfully to persuade Miami Dade Community College, where she is a professor, to fire her. She says one recent caller warned, "I'm calling to tell you that if you don't behave, we're going to chop off both your legs."

Liberal groups say they get the same sort of treatment. When they have meetings, the Latin American and Caribbean Solidarity Association and the South Florida Peace Coalition regularly station guards at the door and in the parking lot; law churches will open their doors to such meetings after three violent incidents in 1983, including the firebombing of one church. When a group called the Coalition for Non-Intervention in Central America scheduled a slide show on Nicaragua last year, it had to hire security officers after organizers said they got 20 threatening calls.

"Everyone who doesn't agree with the Cuban leadership here is seen as a communist," says Jose O. Padron, whose cigar factory was bombed several times between 1979 and 1983 after he took part in talks with President Castro aimed at winning the release of Cuban political prisoners (and, worse, was photographed handing the Cuban leader a cigar from the Padron factory).

Bombings and similar violence stopped in 1983, after terrorist groups and their leaders were sent to jail. Most people here agree that the atmosphere has become far more tolerant.

But efforts to muzzle unpopular views continue, earning Miami a reputation as a place where one doesn't openly discuss certain subjects. When the Americans for Democratic Action scheduled a symposium last spring entitled "Central America: Prospects for Peace," the group moved the event to Boca Raton, Fla., from Miami. "We wanted to ensure the safety of the panelists," the organizer of the event says. Some entertainers, such as the Panamanian salsa singer Ruben Blades, won't come to Miami because, his manager says, he fears for his life.

"Miami is threatening to become another country," contends Ray Funaro, the president of the local chapter of the Southern Christian Leadership Conference, which sponsored a rally in April to support free speech. "People have come here in great numbers who haven't been taught the American way, resulting in a contempt for the Constitution and the Bill of Rights."

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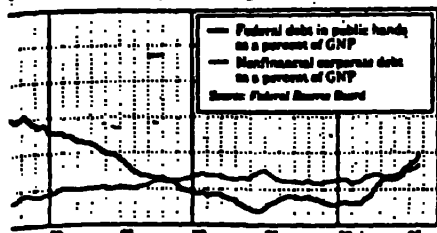
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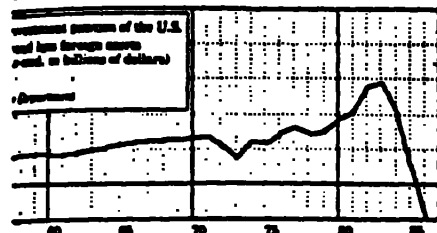
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Rate of the economy is rising



U.S. is now a debtor nation



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6.5%	62.9%
1.5%	76.9%
1.5%	74.7%

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Income re-
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1980s, fell to less than 5% in the late 1970s
and now is up near 7%. Business spending
on plant, equipment and other fixed invest-
ment has followed a similar pattern, dropping
from about 11% of GNP 20 years ago to 5%
in the 1980s and recently moving over 12%.

Towering Debts

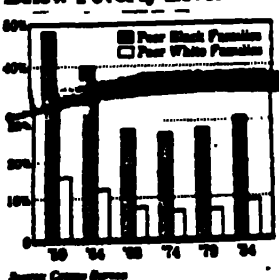
Another long-term change—one greatly
troubling many analysts—is the increase in
debt in the economy. Federal Reserve
Board Chairman Paul A. Volcker recently
said a House subcommittee that in just the
past three years there has been an "extra-
ordinary" buildup in federal, corporate and
consumer debt. He called such a buildup
"unusual" in a period of peace-time
economic growth and said it sug-
gested an underlying "fragility of the fi-
nancial system."

In terms of GNP, federal debt now out-
standing approaches 40%, which is actually
below the mid-1940s rate of about 45%.
However, the earlier figure still reflected
the lagging impact of borrowing to finance
World War II, when the federal-debt level
exceeded GNP. This debt-to-GNP ratio
continued dropping until the mid-1970s,
but then it reversed itself. At about 25% of
GNP as recently as 1980, it now is back
close to levels of the early 1940s. In absolute
terms, federal debt in public hands re-
cently topped \$1.6 trillion, and most analysts
see the rapid rise continuing as the
large federal budget deficits persist.

The rise of corporate debt has been
even more pronounced. In the past three
decades, this debt has risen from less than
2% of GNP to nearly 40%. At the same
time, corporate liquid assets—cash plus
any holdings readily convertible into
cash—have kept shrinking. At about 15% of
GNP three decades ago, they now come to
about half that rate.

Meanwhile, consumer debt continues to

Percent of Families Below Poverty Level



slowly pay rise in the period. The impact is
that unit labor costs have climbed 25% an-
nually, on the average, even though the
rate of pay increase has been the lowest
for any major business sector.

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investments from the U.S., American
credit markets would suffer a sharp
squeeze that would drive up interest rates
and possibly bring on a new recession.
Whatever their validity, these worries
didn't exist when the U.S. was a creditor
nation.

Such worries, however, don't change the
fact that Americans, in the main, have
prospered increasingly as the postwar de-
cade has rolled by. Estimates of whether
such gains will continue vary widely—from
forecasts of accelerating economic ad-
vances and good times to predictions of
economic collapse worse even than in the
1930s.

All that is certain, perhaps, is that there
will be surprises. Who imagined in 1980,
when the consumer price index rose more
than 13%, that in some spring months in
1981 the index would decline?

Oklahoma's Ban on Ads For Liquor Is Struck Down

OKLAHOMA CITY (AP)—A federal
judge struck down Oklahoma's ban on li-
quor advertising Friday, holding that it
wasn't applied uniformly.

U.S. District Judge Leo West said the
telephone book, cassette interviews and
out-of-state broadcasters aren't banned
from advertising liquor in Oklahoma.
In addition, he said, The Wall Street
Journal is building a publishing plant in
Oklahoma City that will publish the
newspaper with liquor advertising.

The attorney general's office said
there was no decision on whether the
ruling would be appealed.

Assistant Attorney General Victor
Hird said the fact that the U.S. Supreme
Court earlier had ruled that Oklahoma's
ban on liquor advertising by co-

mmunity radio stations made the
his intervention necessary.

The suit was brought by the Okla-
homa Beverage Association and the
Oklahoma Press Association.

It contended the state's law violated
First Amendment rights of commercial
free speech, but Judge West noted that a
federal appeals court earlier had re-
jected this argument in another case.

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where she is a professor, to fire her. She
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which sponsored a rally in April to support
free speech. "People have come here in
great numbers who haven't been taught
the American way, resulting in a contempt
for the Constitution and the Bill of
Rights."

Such concerns raise the point, some Co-
lumbians say, "Americans are the way Colu-
mbians were back in 1897," before Castro came
to power, says Tomas Garcia Puente, the news
director of La Cubainforma, one of several
Spanish-language radio stations that led
the charge against Fidel Frías's play. "We
thought about the revolution as liberals.
Then we lost everything."

Manuel Antonio Varona, the prime min-
ister of Cuba between 1960 and 1980 and
now the head of the Cuban Patriotic Junta
in Miami, believes that Americans are po-
litically naive and should change the Co-
nstitution to enable communism. "Democ-
racy has to defend itself," he says.

Still, few see any end in sight to the
free-speech debate, and many expect it to
keep emerging in different ways. Joe
Carroll, a Cuban-born city commissioner,
recently charged that Cuban and Soviet
agents are behind the local free-speech vil-
lage. He called for a federal investigation
into whether some of the organizers are il-
legally required to register as foreign
agents.

After the Frías play controversy, the
Metro-Dade County Council of Arts and
Sciences said it was instructed by George
Valdes, a county commissioner, to run po-
litical background checks on all artists in
county-financed events to keep out those
who may support communism. "The re-
quest was utterly absurd," says Kenneth
Kahn, the executive director of the agency.
He says he won't go along with it.

All Cubans eat, insists Mr. Varona of
the Cuban Patriotic Junta, is that there be
more sensitive to the fact that many Mi-
ami residents have been threatened first-
hand by communism, and at least hold
their rifles elsewhere. "Let them go to
Miami to speak out," he says.

Life Investors Tender Offer

CEDAR RAPIDS, Iowa—Life Investors
Inc. and a unit of a Dutch insurance group
said they would tender 10% of the 100,000
Life Investors common shares
were tendered under their joint offer.

Life Investors and AGO International
N.V., a unit of Amgen N.V., began a tender
offer for as many as 600,000 Life Investors
shares at \$42.50 each, or \$20.5 million.

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May 24, 1985, Militant

Candidate demands investigation of attack on Atlanta SWP headquarters

BY JIM BLACK

ATLANTA — The socialist bookstore and campaign headquarters for Sara Jean Johnston, Socialist Workers Party candidate for mayor of Atlanta, was shot into during the night of May 12.

On Monday morning, May 13, Atlanta socialists found a single 38-caliber bullet hole in the front-door window of their headquarters. The bullet was lodged in a book at the rear of the bookstore. No one was in the bookstore at the time. So far no group or individual has claimed responsibility for this terrorist attack.

When R.L. Lindsey, one of the cops sent to investigate the shooting, was asked if the police would add more patrols to catch the perpetrators, he essentially said that the police can do nothing. He then turned the discussion on its head. He asked, "You had a lot of trouble here

lately, right? Aren't you the group that organized the IBM demonstration?" referring to the anti-apartheid demonstration here April 29.

Most Atlanta socialists had been in Greensboro, North Carolina, for the weekend. They were attending an educational conference on the history of the civil-rights movement. Before they left Atlanta on Friday, two anonymous, threatening phone calls were received. Recently Sara Jean Johnston has received sexually harassing letters placed on her car. The letters, clearly from a racist, show hatred toward the fact that she (who is white) is married to a Black man.

Johnston explained that the attack was a "cowardly act" against her campaign for mayor. She said, "I call upon Atlanta mayor Andrew Young and Georgia governor Joe Frank Harris to act with deliberate

speed to apprehend these criminals. We are holding an emergency defense rally to protest this terrorism on Sunday, May 19, at 7:30 p.m. at our headquarters. It's clear pressure is needed on both the mayor's office and the governor's office. A representative of the mayor's office has stated 'We don't have to contact them because this is a police matter.'

"We disagree. The mayor and governor are responsible. We are asking that telegrams and letters be sent to the offices of the governor and mayor." (Mail to: Mayor Andrew Young, City Hall, Atlanta, Ga. 30303; and Gov. Joe Frank Harris, State Capitol, Atlanta, Ga. 30334)

Immediately responding to calls for support were Joe Beasley of the Georgia Rainbow Coalition; Willia Ray Harris of the National Alliance Against Racist and Political Repression; and a representative of the Atlanta chapter of the National Black Independent Political Party. All three came to the headquarters to show their support.

Support was also received from Ardy Blandford, cochair of the Atlanta NBIPP; Leamon Hood, American Federation of State, County and Municipal Employees; Prof. Mac Jones, Political Science Dept., Atlanta University; Rev. Emory Searcy, Jr., Clergy and Laity Concerned; and Janet Callum, Feminist Women's Health Center.

AA

Eggs and rocks weaken democracy

People who chant "Comunismo, no; democracia, si" and then throw eggs and rocks at, and try to beat up, people who disagree with them about public issues have to learn that *democracia* doesn't work unless everyone has free speech.

The city of Miami did some things right and some things wrong in last Saturday's confrontation between Americans who oppose President Reagan's aid program for the Nicaraguan contras and Americans who support it.

When the word went out that an anti-*contra* demonstration, timed to commemorate the assassination of Archbishop Oscar Romero of El Salvador, was set for the Torch of Friendship downtown, there was no chance of avoiding at least a verbal confrontation. Spanish language radio went on red alert to stir up a crowd. Thus, the police decision to grant a permit to Alpha 66 to hold a pro-*contra* demonstration across Biscayne Boulevard may have been an attempt to make the best of a bad situation.

That gave police some leverage to prevent the groups from mixing, although it also increased the possibility. When Alpha 66 arrived without a platform, city officials provided a truck hoping speakers would distract the crowd with pro-Reagan oratory.

But letting the pro-*contra* group within egg-throwing distance of the anti-*contra* protesters was a mistake, as Mayor Xavier Suarez later conceded. With only the width of a street between foes, police manned a thin line between incidents of violence and a full-fledged riot; police protected the anti-*contra* demonstrators well enough to transport them to safety, but not well enough to make their transportation unnecessary.

Public officials have the right to express their views, too, but they also have an obligation not to incite violence and to insure protection of the rights of all. Officials may have tried to mollify the pro-*contra* supporters, but when Mayor Suarez condemned the presence of "Marxist groups" across the boulevard he did much more than express his views on aid to the contras.

With the danger of violence past for now, the threat that intimidates free speech and free assembly lingers, and so this must be said: The officials who boisterously sided with the counter-demonstrators sided with the day's extremists.

The anti-*contra* demonstration was peaceful and no threat to democracy; the quickly formed demonstration across the street was the source of the missiles. Public officials must insist on law and order and oppose violence and disorder even if, and especially when, they agree with the views of the violent people, as many do about the issue of *contra* aid.

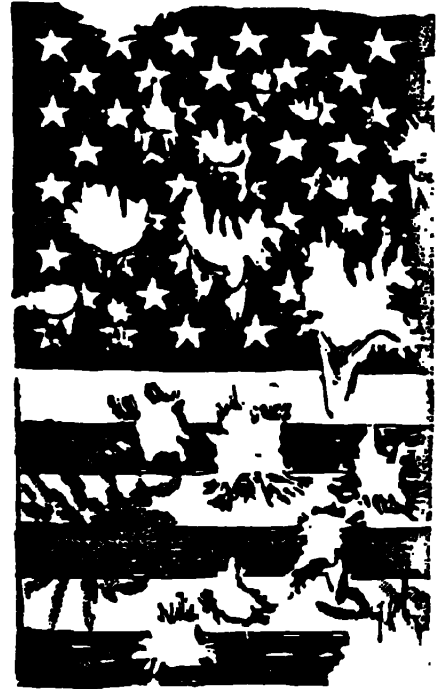
Miami Saturday was where the vultures of verbal excess in Washington came to roost. If the highest office in the land says opponents of the president's policy are deserters from democracy and adherents of the Brezhnev doctrine, less enlightened citizens will take that as a license to throw things, to squelch free speech and to become the real enemies of democracy. Local officials, who have to clean up the mess, have a stake in keeping the debate verbal and not letting it degenerate into violence.

White House Communications Director Pat Buchanan asked, "Whose side are you on?" Now local officials have to answer. The question also applies to the radio stations that called out the mob.

Are they on the side of the egg- and bottle-tossing demonstrators who would physically silence those who disagree with their views, or are they on the side of free and open debate which is the essence of democracy?

Some people still must learn the meaning of free speech and free assembly. There is no better time to teach them than when right under their noses there's an object lesson in what has killed *democracia* elsewhere, and they and their conduct are it.

Let's hear the radio stations and public officials defend freedom for all in Miami as loudly as we've been hearing them defend it for Cuba and Nicaragua.



WASH DC MIAMI NEWS

Georgie Anne Geyer

Universal Syndicate

To ea

WASHINGTON — People suppose that Nicaragua is a country, and, perhaps it still is for the human beings who live there. It is not, however, for impassioned people outside.

To Ronald Reagan, "Nicaragua" is the test of his administration and ideology. One high American official tells me: "When Nicaragua is mentioned, he becomes a different man. His eyes glass over; he believes this is where communism must be stopped."

To the Democratic opposition, "Nicaragua" is a place where they can show how much they have learned from Vietnam, the stage upon which they can march self-righteously.

To the religious activists, both Protestant and Catholic, "Nicaragua" is the place where new activists — who do not like to take the

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White House Communications Director Pat Buchanan asked, "One side are you on?" Now local officials have to answer. The station also smiles to the radio stations that called out the mob



ROCKS, EGGS, CANS AND TAUNTS, THROWN BY CITIZENS AND GOVERNMENT OFFICIALS OF THE BANANA REPUBLIC OF MIAMI, FOUND THEIR MARK SATURDAY...

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To each his own Nicaragua

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To Ronald Reagan, "Nicaragua" is the arsenal of his administration.

And to the Russians, "Nicaragua" is the place not where they can help their people to progress but where they can illustrate their madness through a suicidal

To the Contadora group of neighbors (Colombia, Mexico, Panama and Venezuela), "Nicaragua" is a chess game where they can buy off their own Marxist guerrilla movements (trained as often as not by the Sandinistas) and parade as peacemakers.

To the Sandinistas, finally, "Nicaragua" is the place not where they can help their people to progress but where they can illustrate their madness through a suicidal

But at certain times in history, certain countries cease to exist for themselves.

Like Spain at the time of its great Civil War in the 1930s, these countries become symbols instead of reality. Ideas and lack of ideas are read into them. The most awful weapons of the big countries are tried out on them. Superpowers foolishly make them the fulcrum of their passions.

That is what has happened to Nicaragua. And reality, one



BB

The Miami Herald

JOHN S. EDGEMONT (1884-1962)

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A Ticking Bomb

BOMBS never killed an idea, but bombers never cease trying. A radical leftist bookstore in North Miami is the latest target in a disquieting series of bombings that appear to be politically motivated.

The two firebombs caused some damage at the Militant Book Store. Nobody was hurt — but everybody is hurt when terrorist goons are allowed to shut down democracy's free marketplace of ideas.

The ideas propounded by the bookstore's operators and by the Socialist Workers Party, which had its local office there, have been thoroughly discredited. They pose no threat to anybody. Almost nobody is buying what that bookstore is selling.

Even so, advocates of leftist causes

are entitled to the same freedom to operate within the law and under the Constitution as anybody on the right or in the political mainstream.

Bombings and other acts of political terrorism are intolerable in a society that provides ample peaceful means for expressing dissent and disagreement.

Local law-enforcement agencies and Federal anti-terrorism experts should give a high priority to investigating Miami-area bombings before one of these incidents causes a severe loss of life or property.

Already there has been a serious erosion in Miami's freedom of political expression. Must somebody be killed before community leaders speak out?

Hay que poner fin al terrorismo en Miami

Las bombas jamás mataron una idea, pero los terroristas nunca cesarán en su empeño. Una librería izquierdista radical en North Miami es el más reciente blanco en una inquietante serie de explosiones que parecen tener una motivación política.

Las dos bombas incendiarias causaron algún daño en la Militant Book Store. Nadie resultó herido, pero todo el mundo es afectado cuando se permite que los terroristas pagados cierren libres centros de ideas permitidos por la democracia.

Las ideas preconizadas por los empresarios de la librería y por el Partido de Trabajadores Socialistas, que tenía allí su oficina local, están totalmente desacreditadas y no significan una amenaza para nadie. Casi ninguna persona adquiere lo que vende esa librería.

Aun así, los partidarios de las causas izquierdistas tienen derecho a la misma libertad para operar dentro de la ley y bajo la Constitución que cualquier partidario de la derecha o de cualquier posición política.

La colocación de bombas y otros actos de terrorismo político son intolerables en una sociedad que brinda amplios medios pacíficos para expresar cualquier desacuerdo.

Las agencias locales para el cumplimiento de las leyes y los expertos federales antiterroristas deberían dar una alta prioridad a la investigación de las explosiones en la zona de Miami antes de que uno de esos incidentes cause una severa pérdida de vidas o propiedad.

Ya se ha hecho un serio daño a la libertad de expresión política en Miami. Será necesario que alguien resulte muerto para que los líderes comunitarios levanten su voz.

cc

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eat crow

as Dog / 11A



Hurt racer back
on the track

Archdeacon at the body / 1B



Arts calendar
runneth over

BB-B9 season opens 1C

The Miami News

27, 1986

BLUE STREAK • 25¢

warnings
on labels
acne pills

In an unprecedented action ordered by the nation's regulatory agencies, the Food and Drug Administration (FDA) will require manufacturers of acne pills to place a prominent warning on the drug's label, according to a spokeswoman for the agency.

See ACCUTANE, 6A

is the boss
to you



FBI looks for link in 9 Dade bombings

DAN CHRISTENSEN and STEVE KONICKI

Police and FBI agents strongly suspect yesterday's bombing of a Coral Gables home was the work of an anti-Castro terrorist group and they are investigating whether the blast is linked to a series of pipe

bombings that have plagued Miami's Cuban-American neighborhoods over the last year.

"We are attempting to determine if there is a connection between any or all of the last nine bombings," FBI special agent George Klaynack said today. Klaynack said authorities are now "fairly sure"

that a terrorist group is responsible for planting the bomb that damaged the home of Miami-Dade Community College professor Mario Cristien Herrera, the organizer of a conference on U.S.-Cuba relations held yesterday. The bombing prompted a Miami hotel

Please see ROMANOS, 6A

'I'm kind of sick of the law right now'

Hastings' pal

was probed
in similar case,
FBI agent says

ANDY RYAN



MAV

ACCUTANE

drug's manufacturer, I Roche of Nutley.

Grigg says the re were prompted by 6 cases of birth defects the drug since it was in 1982, though the FDA t actual number is much i FDA says the risk of Accutane user having i child is one in four or gr

The requirements fol commendation by an FD panel of outside expert prescription drug rema market. It is considere effective treatment fo scarring acne.

Grigg said the requir Hoffman-La Roche incl tograph of an infant de the drug was "unpreced

Glynn said the compar ly agrees with the FD which does not stray u the advisory panel's r dations, but Hoffman believes the photo "mar appropriate ... to us patient consent materia in the doctor's office.

2 West b

Associated Press

JERUSALEM — Two ian teen-agers shot b soldiers during clash occupied West Bank di hospital officials and ls said.



AF fro1

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...the event has been ...
The meeting's new site was kept in strict secrecy until mid-afternoon. Then about 150 participants gathered at Herrera's home at 1545 Blue Road in Coral Gables and drove under tight security to the university.
Gables police guarded the en-

conference or- g a n i z e r s changed a previous decision not to invite him to avoid further controversy. After the bombing, they figured things could not get any worse, said Cuban Institute member Arturo Villar.



Sanchez

When Garcia Fuste asked how he could make statements like that fearlessly, knowing he will be returning to Cuba within 90 days. Sanchez said, "Actually, I am afraid, my friend. But we have been saturated with fear and must begin to lose it."

BOMBINGS, from 1A

to cancel the conference, but it was relocated at the University of Miami.

An unidentified Spanish-speaking man, who claimed to be a member of the Alliance of Uncompromising Cubans, claimed responsibility for the bombing in a telephone call to a local radio station, Kiszynski said.

"It appears to be a new group, or at least a pseudonym for an established group," he added.

The previous explosion occurred May 3, under a car parked outside the Cuban Museum of Art and Culture in Little Havana after the museum held a controversial auction that included works of Cuban painters loyal to Castro. There were no injuries in either incident.

Kiszynski said the seven other bombings were at stores in the exile community that ship goods to Cuba.

"There is a lot of concern out there about what is happening and I wouldn't like it to get like it was in the 1970s," Kiszynski said.

The latest bombing incidents include:

✓ May 2, 1987, 12:45 a.m.: A crude pipe bomb exploded at Almacén El Espanol, 7 E. 44th St., Hialeah. The company, which ships packages to Cuba and helps with immigration matters, has been the target of bombings six times in 22 years.

✓ May 2, 1987, 2:29 a.m.: A bomb badly damaged Cubanacán of Miami, 2319 N.W. Seventh St., which ships supplies from Miami residents to relatives in Cuba.

✓ May 25, 1987, 3:45 a.m.: A pipe bomb shattered a window at Cuba Envio, 4700 N.W. Seventh St., which ships packages to Cuba. Three men were seen leaving the area shortly before the blast.

✓ July 30, 1987: A homemade pipe bomb exploded in front of Machi Viajes a Cuba, at 4964 N.W. Seventh St., a small travel agency that arranges trips to Cuba.

✓ Aug. 27, 1987: A pipe bomb exploded outside the storefront office of a Hialeah business that sends packages to Cuba. The business, Va Cuba, was at 2900 W. 12th Ave.

✓ Aug. 28, 1987: A crudely made pipe bomb was defused by the Metro bomb squad in a boarding room above a grocery store at 2325 W. Fifth Ave., Hialeah. The bomb was found by Hialeah SWAT team members who were serving a search warrant.

✓ Jan. 2, 1988, 12:27 a.m.: a pipe bomb ripped through the front of Miami Cuba, 515 S.W. 12th Ave. which also ships goods to Cuba.

Community leaders and law enforcement authorities fear the most recent bombings may signal a return to anti-Castro violence that had marred Miami in the past. They warn that the violence could hurt tourism and tarnish the image of Cuban-Americans.

The latest series of bombings is one of the worst since a wave a decade ago. Targets then included the FBI office, Miami police headquarters, a bank, Miami International Airport and the Metro Justice building.

Miami Police Chief Clarence Dickson called the incidents "the most cowardly acts that I know. I thought that bombs were beginning to be a thing of the past, and now they are raising their ugly heads again as a way of resolving (issues)..."

"We are not in a civil war here. We are all Americans. We don't bomb each other."

William Cullom, president of the Greater Miami Chamber of Commerce, feared that continued bombings may scare away tourists and business people thinking of relocating here.

Miami Mayor Xavier Suarez said the incidents may make "the Cuban-exile community look bad" and actually help Castro.

"Certainly when you get two, it begins to concern you," the mayor said. "I hope this is the end."

The bombings come amid improved U.S.-Cuba relations, including the resumption of an immigration agreement with the Cuban government last year, and Castro's decision to allow a human rights campaign in communist Cuba. They also come as U.S. immigration officials continue to detain anti-Castro militant Orlando Bosch for a deportation hearing.

Speculation as to who actually committed the bombings was wide ranging. Some exiles said the more fervent anti-Castro factions within the community may have finally reached their "boiling point" and turned violent. Others blamed the bombings on secret agents for Fidel Castro.

WQBA-AM reporter Angel Zayon said the radio station received two calls from an unidentified man claiming credit for the Herrera home bombing.

"The man said he would bomb the Herrera home again if the conference planned by Herrera went ahead as scheduled," Zayon said.

Although local exiles have vehemently opposed renewed U.S.-Cuba relations, the Cuban-American community here is "made up of reasonable and professional people who would not undertake extremist acts like these types of bombings," said Mark Gallegos, vice chairman of SALAD (Spanish American League Against Discrimination).

Guarione Diaz, executive director of the Miami-based Cuban-American National Council, said: "These are probably acts committed by a small group of individuals who do not reflect the feelings of most Cubans here or Cuban organizations of any type."

The Rev. Francisco Santana, Hispanic affairs director for the Archdiocese of Miami, went one step further.

"Knowing my people as I do, I won't exclude the possibility that some of these incidents are being caused and directed by Havana and Castro," Santana said.

Dickson said police have no suspects in the incidents and are asking the public to come forward with any information that may lead to arrests.

Several segments of the community plan to examine the two bombings and their aftermath.

Gallegos said SALAD members will meet through the Memorial Day weekend to discuss the issue. Dade's Community Relations Board also will look into the incident, CRB assistant director Lloyd Major said. Cullom said the bombings will be examined at the annual Greater Miami Chamber of Commerce's Goals Conference, scheduled for June 3-5 in Key Largo.

Miami News reporters John Fernandez and Bill Giebre contributed to this report.

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Local News

Sunday, May 8, 1988

The Miami Herald

Section B

center site picked in private

Public officials appointed the panel of civic elite to make the decision. They chose Bicentennial Park.

seven-member committee, appointed in December by the mayors of Metro and Miami, appears to have met in violation of Florida's government in the sunshine laws. It did not provide public notice of its meetings.

Metro Mayor Steve Clark's chief assistant said the mayor did not inform the committee it should give public notice of its meetings. "You appoint a committee, you don't give them directions as to when or how to meet," said the mayor's aide, John McDermott.

The committee's behind-the-scenes strategy for getting the new

performing arts center built in Bicentennial Park became public because a secretary to the committee chairman, banker David Paul, took virtually verbatim notes. Portions of the minutes were first published April 28 in Miami Today, a business weekly.

"Much to my surprise, there were very detailed minutes. There was some lady sitting in a corner taking minutes," said Chapman, chairman of the company that owns The Miami Herald. He said he "wouldn't have had any problem if a reporter showed up."

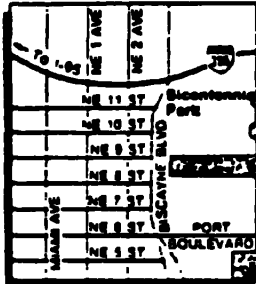
According to the minutes, the committee planned to develop a united front on a location and to share responsibility for lobbying city commissioners to support their choice before going public with their proposal.

Chapman told the committee he had talked informally with The Herald editorial board and felt it would support the Bicentennial

Please turn to PAGE 7/28

A SIGNATURE FOR THE CITY

A group of influential Miami wants to locate a performing arts center in Bicentennial Park, not the location recommended by the city and county.



ALVAN H. CHAPMAN JR.
CHAIRMAN



DAVID PAUL
CENTRUST



SAM PAUL
LAWYER

"The right place is a spectacular waterfront location as the center can be a signature for the city."

"Important, qualified people need to volunteer without getting premature criticism."

"The cavalier way in which the private sector members of the committee talk of manipulating the political process reflects an arrogant disregard of the public interest."



More than 5,000 people, many carrying flags or placards, marched through Little Havana to protest an apparent thaw in U.S.-Cuba relations. A woman, foreground, dressed in the colors of the Cuban flag walked in symbolic chains, her mouth covered by a gag.

Marchers decry U.S.-Cuba ties

By RICHARD WALLACE
And AMINDA MARQUES
Herald Staff Writers

Thousands of people — some bearing placards, others carrying the red, white and blue, single-starred Cuban flag — marched in streaming sunshades Saturday through Little Havana for a political rally at Jose Marti Park.

They made their show of numbers.

They see the two countries edging closer together, relations thawing, the hard line against Castro growing soft. They do not like this. Said one: "I don't want

cally have with the Cuban people," O'Farrell said, "receiving enthusiastic applause."

The priest asked forgiveness of the Catholic Church before making his final statement.

"I would place a bundle of dynamite under that bargaining table," he said amid thunderous applause.

Last fall, meetings between representatives of the two governments resumed



ACTION LINE/SB
TAKE TWO/2B
DEATHS/SB
COMCS/4B

Monday, May 12, 1988

The Miami Herald

Booth

Local News

Tiny cast of characters dropped curtain on pla

By FANOLA SANTIAGO

There of Cuba," the Miami-Cuba political farce, is a two-week show-biz smash.

In two weeks now, a quarrel over the backstage of a New York playwright and her lover, Y. Conlar — piece of cake in English — civil libertarians on the edge of their

Miami, a city nervous about Communist influence, is still in the oven.

There is an Act One. Scene One. It all began in the offices of Miami's top-rated AM radio station, La Quedando, the very Cuban, on April 28.

In a WQMA microphone a man read a letter better critical of a New York writer Dolores Prida. Dade's first Hispanic theater festival was about to perform her play.

Mr. Altru, a Cuban palatier, read the letter:

"Dolores Prida, known activist in favor of the Cuban government, has been invited to participate."

Typed at the bottom were 34 names of other Cuban exiles from Miami's literary and artistic community. The letter asserted that Prida, a Cuban American, had been a chief backer of Arellano, a magazine that circulated in Havana. She was portrayed as a sponsor of a Washington organization that lobbied for relations with Cuba and opposes Radio Martí.

The radio always denunciations because another pink spot that once again ignited a First Amendment controversy.

Eventually, Acting Together, the group of theater lovers who brought the city's first Festival of Hispanic Theatre, found their turn apart.

Two plays, including Prida's, were canceled. Some panelists withdrew from the festival's seminars at Miami-Dade Community College's downtown campus. Two theaters pulled out of the

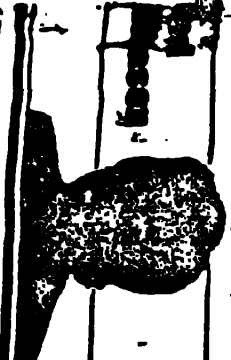
festival, preferring to play independently. And Dolores Prida — and her antagonists — became media-made personalities.

"Conceptually, there is nothing wrong with the letter," said Jorge Ulla, the Cuban American author of The Other Cuba, a widely praised book about the human rights violations of Castro government. "They [the writers] have the right to do it. But that turns into a slogan for certain. It is converted into a great battle, anti-Communist propaganda."

"It turns into pressure, and the city ends in a climate of intolerance — and that's a wrap," Ulla said.

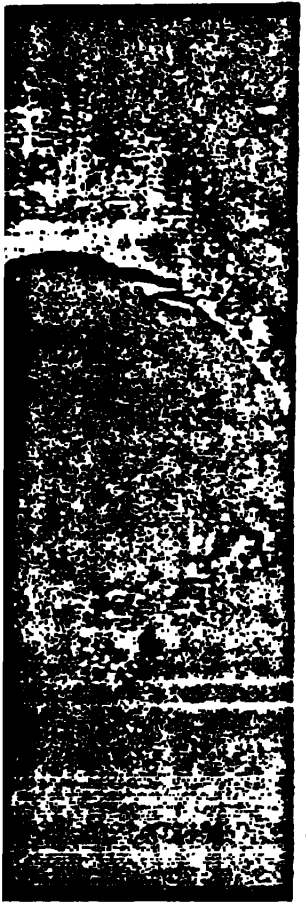
The entire episode is an intriguing study backstage, made-in-Miami Cuban drama. At center stage is Prida, a playwright

Please turn to TLJ



'Vice' violence keeps corpse

Splish-splash



Norman Lear partner may buy Ch. 23

By JAY DEACASSI

Take Two

A weekly follow-up on the news

Compiled by Herald staff writers Joann Biondi, Clem Richardson, Yolanda Ulrich and Herbert Buchbaum

Scofflaws scoot to settle the score before crackdown

A crackdown on parking ticket scofflaws in Dade County has drivers scrambling to pay overdue fines and avoid the auto pound.

Business at the Dade Parking Violations Bureau picked up right away when it was announced that every car caught would be towed away or flitted with a dreaded wheel lock. On Wednesday, the first day, at least 100 of the estimated 3,000 drivers having 10 or more overdue tickets threw themselves upon the mercy of the court. Some paid fines as high as \$600.

"A good, productive day," said Colleen Abernathy, chief of Dade's special services division Wednesday. "It has really, really been wild."

Rather than risk loss of transport, plus enduring the headache of recovering their cars and paying towing and storage fees in addition to parking fines, system-boaters have continued caving in, says Carlos Figueroa of the Violations Bureau staff: by late Friday afternoon, only 18 cars had been towed for legal reasons. Seven had been found in Miami Beach, the municipal leader.

They Meally scored one, a driver who was stopped for a moving violation and found to have 18 overdue tickets.

The big losers so far include Richard de la Pena of Miami Beach, held responsible for 66 tickets and \$1,400 in fines, and Mrs. C. Brown of Miami Lakes. Brown has to answer for 84 tickets worth \$1,410.

Little red books, listing the license plate numbers of all cars suspected, are being distributed to police agencies. In Coral Gables, parking department workers get two hours' time off for each car they turn in. Two mechanics and one parking attendant bought five cars Friday.

"After being out there for a few years, you generally see the same cars with tickets on them every day," said Greg McCallip, a mechanic. He reported two and earned four hours off.

"With summer coming up, I'm going to enjoy it," he said.

Youth, 15, to stand trial as adult in choking of girl

A 15-year-old boy charged with choking a Homestead High School student until her lungs were broken will be tried as an adult.

A booklet listing the tags of scofflaws with more than 10 unpaid parking tickets is being distributed to Dade police agencies.

Ronald Jones Jr., charged with attempted murder and sexual battery, is scheduled for trial June 2 before Dade Circuit Judge Howard Gross. He has been held in Youth Hall since his arrest on Sept. 18.

Jones is the son of Barbara and Ronald Jones. The family lives at Homestead Air Force Base, where the father is an Air Force sergeant. The father said Wednesday that he had nothing to say about the matter.

According to Homestead police, Ronald Jones Jr., attacked Marilyn Stitt, 17, in a school stairwell shortly before 1 p.m. Sept. 8. She was barely conscious when she was taken to James Archer Smith Hospital, where she underwent surgery.

Though in critical condition and unable to speak, Stitt identified Jones to police by pointing out his picture in The Larzel, Homestead High's yearbook. Stitt lives with her parents, William and Sue, in Northdale.



Stitt, who remained in the hospital for 10 days, is attending classes at South Dade High School. She did not reply to telephone messages left there, and The Herald was unable to reach her home.

After the attack, School Board officials ordered Homestead High to decide if stringent security measures should be enforced, said Principal Percy Oliver.

"There are 'dead spots' in the school — places that are difficult to monitor," Oliver said. "However, our security was found to be as effective as any other school's."

The Stitt attack was the first serious crime the school since it opened in 1970, Oliver said.

Mother of dead baby four in river is still unknown

When the body of a newborn boy was discovered drifting down the Miami River in February, Homestead Detective Sgt. Steve Viss assumed they would find the mother.

"We searched up and down the river and it's nothing at all," said Vissano. "No relatives, no neighbors, not even anyone who knew a pregnant woman."

The baby, with his umbilical cord still attached, was scooped out of the river between two floating boats on Feb. 22.

According to the Dade medical examiner, it was a full-term, stillborn delivery that did not take place in a hospital.

The cause of death was natural and the examiner said the baby probably was dropped into the river just hours after delivery.

Vissano, who said he originally thought this was a chance of finding the mother, now this is impossible.

Small cast of characters set stage for canceled play

PLAY/From 18

New York's Hispanic theater. Politically sensitive Miami Cuban exiles were quick to note her past affiliation with groups with close ties to Cuba's government. Pride decides she is Communist. Saturday she said she had not been

known beyond



um of Science, actresses and producers requested Coeur y Car.

Phone calls

"Every night, I would get home and turn on the tape recorder," said Nell Estrada, an actor once ousted from a Havana radio station for "violations."

whose satirical movie about the old and new Cuba and Cubans was deemed Communist-oriented by the press in Little Havana. Ulla is remembered in Miami for fitting a baroque at "Communist" docked at the Port of Miami in a

Pride.

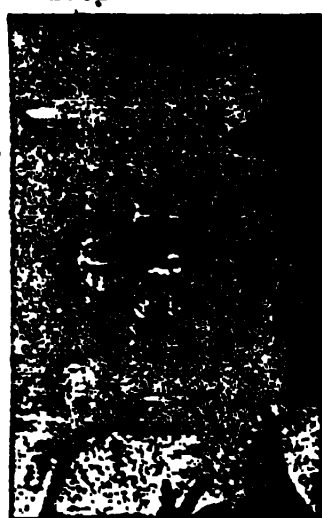
"The solution is to Vallum," he says. "I recall political Vallum for Mili

ELECTRICAL CONSULTANT & LABORATORY

Stage for canceled play



st Juan Abreu said he radio that Prida was an activist in favor of the Cuban government.



Prida denies she is Communist. She says she has not been active in Cuban political issues for five years.

son of Science, actresses and producers released *Cooper y Carter*.

Phone calls

"Every night, I would get home and turn on the tape recorder," said Hall Estrada, an actor once ousted from a Havana radio station for violating government standards.

"There were many calls of support, but they would hang up," Estrada said, "and hang up on me. I was not a death threat," Estrada said.

Rafael de Acha, the director, said he got threatening calls at his theater's office. Someone told an actress, he said, that if she performed in Prida's play, she would not be able to get job in Miami.

Then came a bomb threat to the museum. Someone made it by telephone. Police evacuated the museum. They found nothing.

Suddenly, the production of Prida's play was hardly a piece of cake.

Three theater companies threatened to withdraw from the festival if it was produced.

Marta Perez, a director of the theater company Gratiel, took note of Prida and said she did not want to "be involved with that lady."

Perez said: "Miami is a small city where we the citizens are close to our homeland and that Communist stuff doesn't go well here."

Actually, Perez said, she had never heard of Prida before. "I didn't know who she was. We heard about it in WQEA."

Director de Acha asked for an emergency meeting of Acting Together. He wanted to know what the members thought about Prida's play.

During the discussion, a theater producer got up and said she would call a well-respected Cuban history professor who had staged *The Crucible*, even though its author, Arthur Miller, had been blacklisted as a leftist.

Vote to cancel

The theater producer, Teresa Maria Rojas, came back with the professor's opinion — cancel the play. The group took a vote. It was unanimous: cancel.

The director obliged. He put on another play. The night before the opening, police dogs sniffed the auditorium to make sure it was safe. They sniffed again on opening night.

Since then, Florida International University has pulled out of a conference to protest the cancellation of Prida's play.

Prida herself has participated in two seminars. In one, she stage-directed her play. In the other, Miami Vice star James Edward Olmos appeared unexpectedly at Miami-Dade Community College. He talked for an hour. Not about the controversy but about his career: he makes \$400,000 a year, he told everybody.

People in Prida's hometown, the Big Apple, heard about the Miami situation last week.

One was filmmaker Jorge Ulla,

whose satirical movie about the old and new Cuba and Cubans was deemed Communist-oriented by the press in Little Havana.

Ulla is remembered in Miami for firing a bazooka at "Communists" docked at the Port of Miami in a

Polish ship. He got prison time. Ulla now says New York bans don't pay much attention to Prida.

"The solution is to take Valium," he says. "I recommend political Valium for Miami."

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makers vowed to take away university's funds.

At two Cuban exile art iga, they found highly a ive audience.

are not here because we have Quez shoes to wear in a," Morgado, the freelance list, said. "We are political and we have a commitment country and our communi-

ate intensifies

Incumbent Cuban radio com- ry about Prida and her play ily caught the attention of lami Harald and The Miami The newspapers criticized tics.

English-language coverage, 1, intensified debate. w it hurts our enemies that bams have power," commen- Armando Perez-Roura said AQF-AM, Radio Miami.

Alreu and his wife, Marcia ido, called and visited sever- ury officials about Prida's s the festival.

y spoke to Kenneth Kahn, dve director of the Dade y Council of Arts and as, a festival sponsor. n says Morgado identified f as an assistant to Metro unctioneer Sherman Winn. e used his name to get to n," Kahn said.

rgado denies using Whan's She works with Winn at the association, not in his country a. n said Abreu came to his to protest. He spoke to 's assistant, Olga Garay-A-

hears, organizer of the festival.

"He had her in tears," Kahn said. "That was the one time when I lost my cool throughout this whole thing. I told him to leave my office."

Morgado took her cause to Metro Commissioner George Valdes. She found an ally.

County funds

An angry Valdes called Garay-Abeura, a festival organizer, and complained about county funds being used to bring Prida to Miami.

The commissioner told her that he wanted to appoint Morgado as his "cultural representative" to weed out Communists from participants in county-sponsored events, Garay-Abeura said.

She wrote a note with Valdes' message to her boss.

She says she read Valdes' message and Valdes approved it.

The note: "Commissioner Valdes says any time we have county funds involved in hiring artists, before contracts are issued, he wants the names sent to him so he can do a background check on them, plus he wants Marcia Morgado to be his representative to check all of our choices for political content."

Valdes could not be reached for comment on that point. Earlier last week, he said: "It is an insult to the Cuban community to have a pro-Castro come here paid for by me, a taxpayer."

"This a Castroite and Commu- nist plan," Valdes said of the controversy. "She knew perfectly that this community was going to protest her. It was a tactic of the Cuban government to divide us and make us look bad."

At the auditorium in the Muse-



More than 5,000 people, many carrying flags or placards, marched through Little Havana to protest an apparent thaw in U.S.-Cuba relations. A woman, foreground, dressed in the colors of the Cuban flag walked in symbolic chains, her mouth covered by a gag.

Marchers decry U.S.-Cuba ties

By RICHARD WALLACE
And AMINDA MARQUES
Herald Staff Writers

Thousands of people — some bearing placards, others carrying the red, white and blue, eagle-marked Cuban flag — marched in streaming ranks Saturday through Little Havana for a political rally at Jose Martí Park.

They made their show of numbers, force and emotion to support their ideal of a free, non-Communist Cuba and to oppose what they see as a softening in U.S. policy toward Cuban President Fidel Castro's government.

"We are convinced, by what is published in the American press and by the ... threat of deportation to which we could be subjected for political dissent, that the inalienable rights of Cubans and the right of self-determination ... are being ignored by the powerful combined forces of the United States and the Soviet Union," the Rev. Jose O'Farrill, a retired Catholic priest, told the crowd of about 5,000 people.

Many of the participants in the march

They see the two countries edging closer together, relations thawing, the hard line against Castro growing soft. They do not like this. Said one: 'I don't want peace with communism.'

— which began at the Bay of Pigs Monument at Southwest Eighth Street and 13th Avenue and ended at the park at Southwest Fourth Street and the Miami River — carried signs protesting negotiations between the U.S. and Cuban governments.

"We reject and label as wretched and villainous any type of rapprochement or dialogue with the present-day executioners of the Cuban people because the only dialogue that we will tolerate with regard to the Cuban issue is one which we would directly, freely and democrati-

cally have with the Cuban people," O'Farrill said, receiving enthusiastic applause.

The priest asked forgiveness of the Catholic Church before making his final statement.

"I would place a bundle of dynamite under that bargaining table," he said amid thunderous applause.

Last fall, meetings between representatives of the two governments renewed an immigration agreement under which 2,746 unwanted Mariel refugees will be sent from the United States back to Cuba and the United States will take in 30,000 Cuban immigrants yearly. Increasingly, the agreement and its political ramifications are being viewed in South Florida's exile community as steps toward official acceptance of Castro's government.

"I would say everybody's here for the same reason, to protest the American treaty with Communists in general — not just in Cuba," Herman Garcia, a 20-year Miami resident, said at the park. Others had equally strong feelings.

Please turn to MARCH 18



Miguel Lorente, waving a Cuban flag, applauds anti-Castro speech.

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ton Road. Police Chief Kenneth Glasman
and Mayor Alex Deoud will speak.

- A march and rally involving more than 5,000 fourth-, fifth- and sixth-grade students at the Youth Fairgrounds at Tamiami Park. The march begins at 11 a.m. Wednesday. Entertainment, starting at noon, will include high school bands, Miami Dolphins players and cheerleaders, UM football and basketball teams and the UM Sunations dance team.
- An anti-drug rally at 9:30 a.m. Wednesday at Oak Grove Elementary, 15640 NE Eighth Ave. Students from North Miami Elementary, Thomas Jefferson and John F. Kennedy Junior highs and North Miami High will take part. Speakers include North Miami Mayor Howard Nau, members of the Miami Dolphins and WSVN-Ch. 7 anchor Jill Beach.

- A bilingual play will be presented by Miami High School students at 1:30 p.m. Friday in the auditorium of Shenandoah Junior High, 1600 SW 16th St.
- Free ride home will be given to customers Wednesday at the U.S. Postal Service's General Mail Facility, 2200 NW 72nd Ave.
- A drug-warehouses fair will be set up at Norland Middle School, 1235 NW 192nd Ter., 10:30 a.m. to 2:30 p.m. Thursday.
- A Just Say No to Drugs skate Friday night at Hot Wheels Skating Center in Devon Ave., sponsored by the Killian Key Club, with Jay Clubs at Palmetto, Southwest, Soudridge, Homestead, South Miami, South Oaks, Coral Park and Sunset. Proceeds go to the addiction treatment program at South Miami Hospital.
- For comprehensive listings of events in your area, see today's Neighbors.

Students get help from those who've met success

By RODRIGO LAZO
Herald Staff Writer

Countess Clarke, 18, sat in the lobby of the Hotel Inter-Continental chatting with George Gadsden, a bank executive trying to help Clarke reach the top of the business world.

Gadsden is Clarke's role model and friend. He got her a summer job at a savings and loan in Tampa last year.

Clarke is a junior at Shaw University in North Carolina. She hopes to lead a corporation some day.

The two got together through a program sponsored by Citicorp and the United Negro College

Fund. Citicorp gave Clarke a \$2,500 scholarship last year and matched her up with Gadsden, an executive with Citicorp Savings in Miami.

The 50 students in the program were flown to Miami this weekend for a three-day conference that included seminars on choosing a career and dressing for success. Citicorp picked up the tab.

The mentors provide career help, but they also try to help students on a personal level. Clarke, whose father died when she was 2, said her mentor has

Please turn to MENTORS / 49



All aboard

Andrea Mend, 7, and her sister Dannielle, 9, inspect a locomotive that by next December is scheduled to be part of a Tri-County

Commuter Train link for people fed up with traffic-snarled I-95. The state-of-the-art trains will stop at 14 stations.

CANDACE BARRETT / MIAMI HERALD

Thousands decry U.S.-Cuba ties

MARCH / from 12

about the issue. "I don't want peace with communism," said Pablo Ramirez, 39, president of a committee to help political prisoners. "The best Communist is a dead Communist."

Marcelino Abadillo, who spent six years in a Cuban prison, came to the United States 21 years ago.

"We choose against any type of dialogue with Castro, the assassin," she said. "It would bury everything we have suffered, 30 years of Cuban prisons, 30 years of separated families. What about the dead? What about the mothers of the dead?"

The march to the park took most of an hour. The moving throng quickly grew from hundreds of people to thousands.

People walked hand-in-hand in ranks that filled the width of Calle Ocho. Many carried signs with such messages as "No Negotiation.

No deportation. Only liberation."

A huge Cuban flag was carried near the head of the procession, at times with more than two dozen people holding its edges. Meanwhile, a woman dressed in the colors of the Cuban flag walked in symbolic chains, her mouth covered by a gag.

Jose Felipe Perez, 36, closed his clothing store to participate in the march and rally.

"I came to this country when I was 22 years old because communism entered Cuba," he said. "I left my family to come here and fight for Cuba. It's impossible to sit at the table of the tyrant after so much sacrifice. We want relations with Cuba, but with a free Cuba."

Perez said the United States would be backstabbing Cubans exiles by negotiating with Cuba.

"It would be like a mother abandoning her child," Perez said.

Lots of button pushing in Hialeah video war

FINAL / from 18

would read: T.M.

"This has been the most confusing piece of legislation I have ever seen," said Councilwoman Natacha Miller after the council again made changes to the ordinance April 28.

"My honest opinion is we as a city have fooled around with this too long," said a perturbed Mayor Raul Martinez. "It's kind of embarrassing."

"I really don't think the video game business in Hialeah is that complicated. I really don't know what's going on," said Councilman Ray Robinson.

"There are a lot of oxes out there," said Hialeah deputy city attorney Rick Gross. "The different revisions are going different ways."

The council at various times

Everybody from game players to the mayor of Miami have had a say on the proposed video ban. The City Council gets its say this week.

gave tentative approval to:

• An ordinance to permanently halt issuing any new video game licenses. Parents liked that one, and so did owners of the city's largest video arcade.

• An ordinance to allow issuing new video game licenses but requiring video games to be at least 1,000 feet from schools. It got lukewarm support from all sides.

• An ordinance giving all video games until 1990 to get out of town. Parents like it. Esquivar

likes it. License holders and video game players hate it.

The latest version says no new video game licenses will be issued and all video games have to be out of the city by Sept. 30, 1990. If the council approves the ordinance Tuesday and Martinez gives it his blessing, it will finally become law.

Lobbying from the business community in Hialeah has been intense, especially from Fun O Rama, the city's only major game arcade.

The Westland Mall arcade hired

attorneys Armando Lacasa, a former Miami city commissioner, and Paul Huck. When Hialeah deputy city attorney Gross did not return Huck's calls, Huck had law partner and Miami Mayor Xavier Suarez apply some pressure.

Suarez phoned Fred Rojas, key aide to Mayor Martinez.

"He said would I please make sure Rick would answer these calls," Rojas said. "It was strange and I don't think it's right for the mayor of Miami to intervene in the process."

Suarez said he wasn't intervening, just helping a colleague.

"Huck had trouble getting through and all I did was call," Suarez said. "He asked me if there was anything I could do, if I could call. I said, yes, I would go that far but not any further. I have a policy of not lobbying sister jurisdictions

for clients."

Unlike other video game operators, Fun O Rama favored the original ordinance. If it had passed, the law would have essentially prevented competing video arcades from opening.

Lacasa said the arcade supported the ordinance because some regulations are needed to "keep the name of video games honest," not because it wanted to kill competition. He said Fun O Rama, which has 80 machines, represents about 10 percent of the city's video games.

Lacasa said the arcade doesn't support the ordinance now up for a final council vote but will not lobby against it, either. Instead, Lacasa said he will wait until 1990 and approach the council then.

By then, "a lot can happen," he said.

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MANY OTHER ITEMS
BEDROOM SUITES,
LIVING ROOM TABLES,

The Los Angeles Times: "A Chorus Line is here at last and on its trip has gone from Champagne to Champagne."

New York Daily News: "A movie that sends you out into the street humming one of its famous tunes..."

Time magazine: "All A Chorus Line lost here was its soul."

...shortly after he began shooting Chorus Line in the Mark Hellinger theatre in New York, director Richard Attenborough was asked about the problems of bringing a stage musical to the screen. "Nothing," he said then, "is beyond being translated into a movie."

Last week, on the night after the New York opening of A Chorus Line the movie, Attenborough returned to the subject: "It's brought a number of people to their knees — probably even me."

Attenborough was joking at least, with regard to his own experience. He has Oscar for Gandhi

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OSFORD / 3K

Blacklisting, Miami style

By NORMA NIURKA
Herald Staff Writer

Their voices are heard in private parties and behind closed doors in Little Havana. People dance to their tunes in discos and at social clubs. Their records sell.

Cubans, Puerto Ricans and Dominicans vibrate to the Panamanian salsa of composer-singer Ruben Blades; Spaniards and Argentines rejoice in the lyrics of Argentinian singer-composer Alberto Cortes; most walk on air when the Bob Dylan of Catalonia, singer-composer Joan Manuel Serrat, interprets his Love Poem.

But because of a vigorous underground campaign of censorship, the Spanish-language radio stations in Miami have banned these performers. Some station manag-



Ruben Blades: 1981 criticism of U.S. foreign policy cost him radio play.

"We think it's a healthy not to mix politics with show biz."
Blades Pipe, FM-92 program director

ers say they have been forced to do so because of bomb threats; others have simply responded to calls by newspaper and radio commentators, who once almost exiled Julio Iglesias' voice from the airwaves.

In addition to Blades, Cortes and Serrat, the names on the stations'

original, Kov, Francis Cupola... their Chorus Line audition... gave up. A Chorus Line, which is shown in New York, became the longest-running show in Broadway history. A Chorus Line the movie, which opens in South Florida on Friday, took more than a decade to get to the screen. A singular sensation indeed.

Attenborough finds himself flustered with the glow of the achievement and a little dismayed by the lone of some of the early reviews. "New York Times called it 'less a movie than an expensive souvenir program'." But he got it done. In fact, he combined a glittery, big-screen an-

Place turn to CHORUS / 12K

"blacklist" include Puerto Ricans Danny Rivera, Luccita Benitez and Chicho Avellanet and Spaniards Victor Manuel and Ana Belen. Most sympathize with or support the Cuban regime; others are pro-independence Puerto Ricans or old anti-Franco Spanish activists.

In a Hispanic community as politicized as Miami's, singers must think twice before they talk about current events or discuss their ideology — that is, if they want to make it on the Spanish-language stations.

Record store managers and radio station executives, though, say that art and politics should not mix.

Julio Enrique Mendez, station

Please turn to BLACKLIST / 13K

'We cannot row against the current'

BLACKLIST / from IK

manager of WQBA, says that the political ideology of a singer is not taken into account when program schedules are prepared.

"It only bothers us when the singer makes political references in his songs or talks about politics in any show. This is, for instance, the case of Danny Rivera, who continues to comment in favor of left-wing ideas or the Cuban regime," Mendez says.

Not to hear Rivera tell it.

"I have to be honest and straightforward: I traveled to Cuba, like many other Hispanic and American performers who are still doing it," he said recently. "I did it a long time ago . . . I've learned to give expression to my art without any ties to anything else."

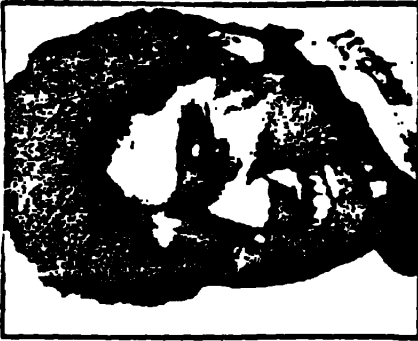
There was a time when Rivera was No. 1 among Hispanic singers in Miami. With his baritone voice, he rendered beautiful boleros, romantic ballads that delighted people in love. He had charisma and fought hard to achieve recognition for his native Puerto Rico.

Then everything changed. He gave free concerts to promote his ideal of Puerto Rican independence, and in 1973 joined a group of singers who performed in Cuba. His voice and his name disappeared from Spanish-language radio in Miami. Now, he says, he is anxious to return to Miami and be "family" again.

Don't offend exiles

Winning back radio station acceptance is not always easy.

Radio Suave's musical director Susan Rabre explains, "If singers or songs are controversial, we don't play them. The main reason for that is not to hurt people's feelings. Some listeners are bothered by singers who have gone to Cuba or have spoken in favor of Cuba."



Danny Rivera: Once the top Hispanic singer in Miami.

The stations' code of practice is to avoid offending Cuban exiles, though it's not clear to what extent the listeners are really responsible for banning the artists.

Ruben Blades, for instance, has not been to Cuba or spoken in favor of the Castro government. His blacklisting goes back to a 1981 appearance he made in Miami. Although Blades already was a controversial figure, Radio Super Q, the FM version of WQBA, invited him to perform at a dance. He infuriated his backers by singing a number not to their liking.

"When he heard that he was going to sing *Tiburón* (Shark) — a song in which he denounces American intervention in other countries — we asked him to refrain. He went ahead, and there were lots of problems. So we decided to drop him," Mendez says.

The station received bomb threats and was accused of having Communist leanings. His songs have not been broadcast here since, although a film featuring Blades (*Crossover Dreams*) was shown in Miami.

Down on Iglesias

"We think it's healthy not to

mix politics with show biz," says Betty Pino, program director of FM-92 and CMQ Radio Alegre.

"We don't like to label artists; we're into music, period. We work hard to offer good music shows and avoid distasteful moments for the singer or the listeners."

Pino witnessed one such moment in 1972 at the now-defunct Montmartre Club, when Julio Iglesias was beginning to make inroads outside Spain.

Iglesias, who never makes reference to politics in his songs or in interviews, told the audience he was getting so much mail from Cuba that he would not mind singing there in front of Cubans who might be brothers and sisters, children or parents of Miami's Cubans. He was not allowed to continue his performance. The audience called him "Communist" and threw bottles, drinks and ice buckets at him as he dodged his way to the dressing room. He left the nightclub escorted by four police cruisers.

"It was a sad and unpleasant experience for an artist to go through. The audience showed no respect for him," recalls Pino.

Iglesias' voice immediately disappeared from all the Spanish radio stations except CMQ Radio Alegre, which played him "despite the bomb threats against the station and me," says Pino. And she adds: "We really resent having to censor songs by some fine and talented artists for reasons that have not been thought over . . ."

But eventually the stations relented. Two years after the Montmartre Incident, FM-92 organized two huge Iglesias concerts in Dade

County Auditorium. Police fenced off the stage, fearing a bomb attack.

Domino effect

Other Latin performers have not been as lucky as Iglesias. Puerto Rican Chucho Avellanet, who was very much at home in Miami, was banned this year after he did a concert in Nicaragua.

"We cannot row against the current. If the other stations decided to drop them, we did the same," says Pino of the blacklisted performers.

That's what happened to singer-songwriter Alberto Cortes, who has not only sung here, but includes in his repertoire a song by Orlando Gonzalez-Esteve, a Cuban who lives in Miami. Cortes has visited Cuba many times in recent years. During the Falk-

lands/Malvinas war, he thanked Fidel Castro for speaking in favor of the Argentinians and against the British. His songs were subsequently wiped from the Miami stations' programming.

But there are contradictions. Despite the strict ban, some visitors to Cuba have not been banned, among them Luis Gardey, Los Cinco Latinos, La Pequeña Compania and Mocedades.

On the other hand, records and tapes are sold, regardless of the "blacklisting," in the stores of Little Havana and Hialeah. They are no longer kept in the back room, as they were in the '60s. What's more, the stores even sell records by singers and groups living in Cuba, such as Elena Burke, Esther Borja, La Orquesta Aragon and Irakere.

County Auditorium. Police fenced off the stage, fearing a bomb attack.

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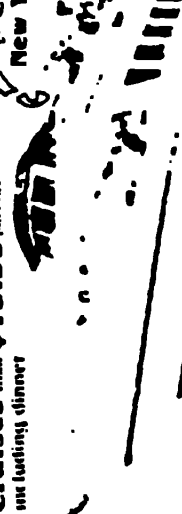
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The Miami Herald

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Sunday, October 16, 1983

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How terrorism sways Miami's politicians

BY JIM MCGEE
Miami Staff Writer

Using bombs, bravado and intimidation, a small group of anti-Castro terrorists has built a power base in Miami that now directly influences city politicians. Miami Mayor Maurice Ferre and his leading challenger in the current election campaign, Xavier Suarez, have openly courted the support of allies described by the FBI as terrorists.

In Little Havana, the same reputed terrorists are called combatants, militant fighters against Castro and communism. Many consider them patriots.

The steady growth of the Hispanic voting bloc and the willingness of many Little Havana civic and business leaders to legitimize reputed terrorists have helped to create this growing force in Miami politics.

The popular Little Havana radio stations help fund-raising drives for reputed terrorists and attack any public figure perceived to be out of step with their

Politics of Fear: The Face of Terror

This report is the fourth in a continuing series of articles based on a Herald investigation of anti-Castro terrorism, the activities of Cuban intelligence agents and the response of American authorities.

The first report, published in January, dealt with the Omega 7 terrorist group and identified its alleged leader, Eduardo Arocas. The second

report, published in April, disclosed previously secret evidence about the 1976 terrorist bombing of WQBA News Director Emilio Millan. In June, the third report detailed the activities of pro-Castro spies in South Florida.

The influence of Cuban radio stations, both on the Cuban community and Miami as a whole, is examined on Page 19A.

anti-Castro goals and methods.

Ferre says the growing influence of reputed terrorists in Miami's political life is a reality that must be faced

"I think in Miami politics it is unavoidable," Ferre said. "... It just happens to be a part of political life in the same sense that, in yesteryear, people like Mayor [Coleman] Young in Detroit and some of the older

black mayors and politicians had to deal with the Black Panthers."

The reputed terrorists' increasing political clout is a source of friction between police investigating their activities and politicians seeking their support.

Mayor Ferre has interceded with law enforcement authorities on behalf of six reputed terrorists during the past decade. Five of those efforts, including his campaign to free reputed terrorist Orlando Bosch, have been well publicized. One incident has remained a secret since 1978.

In that incident, a former police chief quietly asked for a federal grand jury investigation following Ferre's interference in a Miami Police terrorism investigation. The Herald learned. No official investigation was undertaken.

Ferre said he was merely inquiring about possible

PHOTO BY TURN TO TERROR / 1A

'Julio, Julio,'
crowd cheers



Nicaraguans

month period, that has meant up to \$600 a month for each rabid

At times, the link between reput

ed terrorists and Miami politicians is more direct

In August, Miami City Commissioner Lemus Priet championed a plan to honor the late Juan Felipe La Cruz, a terrorist who died 10 years ago in Paris after a bomb he was assembling exploded.

In October 1982, the Miami City Commission voted to give \$10,000 to the exile group heading for Mariel refugees. Ferre defended the grant.

He said Alpha 66 should not be discriminated against, because "it has never been accused of terrorist activities inside the United States."

"I think there is a distinction," he said. New Jersey authorities disagree.

In a 1980 affidavit, New Jersey officials alleged that Alpha 66 leader Andres Nazario-Sargen of Miami met with the editor of New York's largest Spanish language daily, El Dario-La Prensa, and warned him that articles criticizing Omega 7 would lead to retaliation.

"The reporter smells of death and you are starting to pick up the odor," Nazario-Sargen threatened, according to a government affidavit. Nazario-Sargen admits attending the meeting, but emphatically denies making any threats. He was never charged in the case.

There is a precedent for the di-

an open role in public affairs.

1982 disturbance

A commission appointed to investigate a 1982 riot, sparked by a decision to deport a Cuban refugee, determined that a group with ties to Omega 7 had a role in provoking the violence in downtown Miami.

Time after time in recent years, elected officials make decisions based on the fear that Miami's exile community would turn to violence if it was displeased.

"Intimidation is always a part of this," Ferre concedes. During the Mariel boatlift, Ferre told then-President Jimmy Carter that if the exodus was turned back, Miami would be wracked by civil disturbances. Carter let it proceed.

Ferre traveled to Venezuela on behalf of convicted terrorist Orlando Bosch and to Washington on behalf of two reputed terrorists for largely the same reason.

"If [the Bosch crusade] became a highly emotional issue in the Cuban community and, in my opinion, could have erupted in violence and lives could have been lost," Ferre says.

Frequently such actions by politicians alienate law enforcement officials who view terrorists as common criminals.

The support of politicians tends to enhance the reputed terrorist stature in the community, said Arthur Nehrbaas, head of the Metro-Dade Organized Crime Bureau.

"Respectability is an important weapon in the terrorist's arsenal," he said.

Police fear that respectability granted by a politician can be used by reputed terrorists to neutralize police action. That's what former acting Police Chief Adam Klimkowski said he was concerned about during a confrontation with Ferre in 1978.

In a previously secret memo, Klimkowski said he was called into a special meeting with Ferre and former Commissioner Manuel Ribon during a terrorism investigation to explain why his directives were "harassing" the relatives of a suspected terrorist.

gerated his role in behalf of Jimenez and Castillo. He said he was [1986] was the group that was in-



Sometimes the links between terrorism and politics are implied. In recent months, Xavier Suarez, left, and Joe Carollo, right, received generous coverage in La Verdad, a Little Havana weekly that specializes in anti-Castro diatribes.

terred in preventing the extradition.

"I was flat irritated," Klimkowski said. "Here the mayor was saying he had information [on terrorism] and he won't divulge it to me."

After the meeting, Klimkowski directed that the list of the convicted be passed on to the Miami U.S. Attorney's Office, which was then conducting a grand jury investigation of terrorism.

In a memo for his files, former Assistant U.S. Attorney Jerome Santol said that Ferre told Klimkowski, "Because of Jimenez and Castillo, if extradition not stopped, large scale terrorist acts in Miami."

"In a way, it indicated to me that in some way the terrorists had a means to influence the political scene," Santol said in a recent interview. "It [the meeting] has, I think, the tone of intimidation, intimidating law officers trying to do their job."

The week after their meeting with Klimkowski, Ferre and Ribon went to Washington to lobby against the extradition. Their efforts failed.

members of the Cuban community with eight exiles who have, in the past, been associated with terrorism.

Orlando Bosch, who U.S. officials consider a dedicated terrorist, was accused of masterminding the 1976 bombing of a Cubana Airlines jet in which 74 persons died.

The issue: After six years and a long series of court proceedings, a Venezuela justice system had not reached a final verdict. Bosch languished in jail.

The protest won broad support from Cuban merchants and professionals, the Cuban news media, the Cuban Bar Association and other exile dignitaries.

An enthusiastic Miami City Commission pitched in with a resolution declaring an "Orlando Bosch Day." Cuban radio stations loudly proclaimed their support. Ferre joined a delegation of civic leaders going to Venezuela.

On the surface, it was an entirely legitimate civic project. Even some Anglos, such as Mgr. Bryan Walsh and Florida International University President Gregory Woffle, joined in for humanitarian reasons.

It also gave a group of reputed terrorists a new opportunity to gain respectability. At the height of the protest, the Banco de Venezuela International in Miami became the target of Molotov cocktail bombs.

A head-trailing letter sent to Little Havana businessmen in the name of the Bosch Committee listed a group of respected exile leaders and broadcasters along with eight men who have been associated with terrorism.

One of the letters bore this handwritten message: "We await your cooperation."

The letterhead listed: Guillermo Novo, a reputed terrorist who served four years on a perjury charge as a result of an investigation in the 1976 bombing murder of a ex-Chilean diplomat. He was later acquitted of charges of participating in that attack.

Jimenez and Castillo, both convicted terrorists, who were indicted but not prosecuted in the 1976 bombing of former WQBA News Director Milias. Both served time in Mexico in another terrorist attack.

Humberto Lopez, Jr., a convicted terrorist who was injured in a mistaken bombing in 1974. Considered a member of the now inactive cell FLNHC, he was convicted in a weapons case involving a cache of heavy automatic weapons.

We cannot be different from our market

Broadcast threats

Some of the stations broadcast threats and communiques from such groups as Omega 7. All of them have contributed free air time to fund-raising marathons for the legal defense of reputed terrorists.

"We are not pro-terrorist," Lew said. "We support the right of a person to have a defense, to have a lawyer."

Earlier this year, the radio stations joined with some of the same exiles involved in the Bosch crusade to raise money for the legal defense fund of Arencia, the alleged Omega 7 leader.

The Cuban radio stations also serve as anti-Communist watchdogs, focusing attention on people in Miami that they perceive as leftist or pro-Communist.

"That's their problem," said WQBA News Director Tomas Garcia Fuster. "I don't think it's a case of we're doing it to intimidate anybody."

In their anti-Communist zeal, the radio stations enforce a stiff code of political conduct in Little Havana. It is the same code that terrorists articulate with their bombings.

It is a code that is recognized as City Hall.

Says Commissioner Carollo: "I am combating [Castro] in any way I can as an elected official."



'I was flat irritated. Here the mayor was saying he had information [on terrorism] and he won't divulge it to me.'

Adam Nehrbaas, former acting



'Respectability is an important weapon in the terrorist's arsenal.'

Arthur Nehrbaas, Metro-Dade

Arson is suspected in fire near church

A Saturday night fire in a shed behind a Northwest Miami church may have been caused by an arsonist, Miami fire officials said.

Hours before the fire, demonstrators had chanted outside the church to protest a political film being shown there.

Miami fire officials said that a wooden shed behind St. John's Evangelical Church, 2175 NW 26th St., was damaged in a blaze that began just after 11 p.m. Arson is suspected, officials said.

Three hours earlier, about 30 demonstrators gathered outside the church, where members of the Latin American and Caribbean Solidarity Association (LACASA) were watching a film on war-torn Nicaragua.

Miami police did not report any serious incidents during the short-lived protest.

Bomb blast outside city bank linked to talks with Castro

JEFF BENKOE

Miami News Reporter

A powerful bomb that exploded outside a Miami bank is the second explosion this year, apparently aimed at harassing Cuban-Americans who were instrumental in the 1978 "dialogs" with Fidel Castro that infuriated some exiles.

The bomb exploded last night outside the Continental National Bank, whose vice chairman is Bernardo Benes, one of the key figures in the "dialogs" with the Cuban premier that led to the release of 3,600 political prisoners from Cuban jails.

The pipe bomb went off at shortly before 11 p.m. last night, under a tree outside the western end of the bank at 1801 SW 1st St. There were no suspects this morning.

Four people were injured slightly, including a Miami police officer sent reeling 10 feet onto a car.

No one was in the bank at the time, according to Miami police spokesman Juan Santos. Police had been summoned to the site by two anonymous phone calls to local news media.

The blast rocked an apartment building less than 50 feet away, destroying furniture and tearing off an elevator door, and shattered the glass of a beauty-parlor across the street.

Benes, the 49-year-old red-haired vice chairman of Continental, caused a storm of controversy in 1978, when he helped lead the opening of talks with Castro that led to the release of political prisoners from Cuban jails.

ers from Cuban jails Benes, once mentioned by law enforcement officials as an assassination target of anti-Castro terrorists, had taken to wearing a bullet-proof vest.

An unidentified woman called a reporter at WRHC Radio shortly before the blast, warning that a bomb would explode at the bank. The Miami Herald received a call saying that Omega 7, the anti-Castro terrorist group, was responsible.

The bank is three blocks from Padron Cigars, 1566 W. Flagler St., the target of a bombing on the night of January 11. Another bomb went off the same night at Paradise International Inc., 1111 SW 8th St.

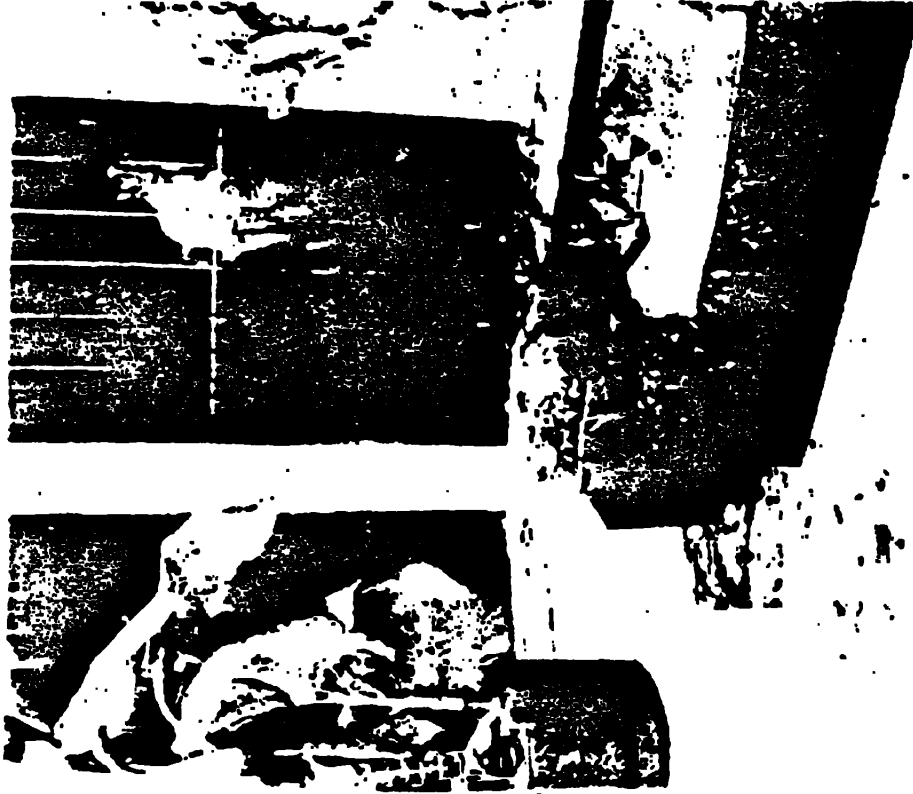
Orlando Padron, like Benes, was instrumental in the "dialogs." Paradise is a travel agency that books tours to Cuba. Police found an Omega 7 decal on a third, defused bomb that night.

Miami firemen and the Miami police bomb squad arrived at the bank at 10:50 last night and found the bomb smoking, according to Miami police spokesman Juan Santos. About 10 minutes later, as the area was being cleared, the bomb exploded.

The force of the bomb damaged buildings as far away as 100 feet away and the windows of Martha's Beauty Salon at 1856 SW 1 St., directly across the street, were shattered.

Miami City Commissioner J.L. Plummer, who drove to the scene before the bomb went off, said: "There was a tremendous boom and

Nicaragua:
No Soviet
nukes due



The Miami News - WILLIAM SHVOER
Bystander peers at bomb damage at Martha's Beauty Salon
lot of white smoke."

Officer Felix Acruvida said the force of the blast sent him reeling from his post across SW 1st Street, throwing him 10 feet across the front of a car. Acruvida was treated at the scene for shock and remained on duty.

Miami and Metro bomb squad officers and FBI agents were investigating evidence for hours after the blast. FBI agent Al Hogan said on March 29.



ALEXIS, from 1A

had to fight a Top Ten contender," Arguello said. "But the manager of the Top Ten guy told me I would have to fight wanted to make a deal first. Before I could fight his fighter — who he said would lose to me — I had to agree that he (the manager) would get a cut of the promotional rights to my fight with Aaron Pryor. Dan Duva is promoting the fight, but this guy wanted to cut into that and get a percentage of the profits.

"Then one of the officials in the WBA told me that before my bout with Pryor would be sanctioned, I had to see that they got 20 percent of the profits from the Latin American TV rights. That means 20 percent of \$150,000. I told them to go to hell."

Aleman said he read Arguello's allegations to Mendoza by phone Thursday night. "Mr Mendoza was very disgusted," said Aleman. "We will not tolerate such actions unless Arguello can prove what he says."

The crux of the controversy involves Arguello's absence from the WBA's junior welterweight rankings. Arguello must be ranked to have his return bout with Pryor sanctioned by the WBA.

Pryor knocked Arguello out in the 14th round of their first meeting which was held in the Orange Bowl last November. Arguello was then the World Boxing Council's lightweight champ, but it was Pryor's title that was on the line in that fight. The WBA did sanction that bout.

Although Arguello, who has a 77-5 record, is not rated among the WBA's junior welterweights, the International Boxing Writers Association, Ring Magazine and KO Magazine all rank him among the top three junior welterweights in the world. The IBWA and KO Magazine both rate him behind only Pryor, while Ring has just Pryor and former WBC champ Leroy

Rookie Metro off
investigating I-95

Police give Gary protection after his criticism of Reagan

Bill Gjerre
and Marva York
Miami News-Examiner

5/24/83

Days after his controversial criticism of President Reagan, Miami City Manager Howard Gary is getting special police protection, according to one of the manager's assistants.

Jack Eads, an assistant city manager who serves as Gary's liaison with police, confirmed the special protection but said it would be "inappropriate" to elaborate.

"Various city officials, from time to time, are provided security measures," said Eads.

Gary would not comment last night or this morning.

Police Chief Kenneth Harms ordered his department not to discuss the matter, said police spokesman Jack Sullivan.

Gary called the President a racist in a speech last Thursday on the eve of Reagan's visit to Miami for Cuban Independence Day. When various officials and Cuban leaders complained, Gary apologized shortly after the President left the city.

Meanwhile, Gary's comments have riled one Cuban Republican enough to muster a petition drive to oust him — while the push to fire the black city manager has riled many of Dade's blacks, who are pledging to rally behind Gary.

Santos Rivera, chairman of the 1,500-member Florida delegation of the Republican National Hispanic Assembly, said yesterday he is spearheading a petition drive calling for the City Commission to fire Gary, the nation's highest-paid city manager.

Rivera has called a meeting of the officers of his group tonight to get a formal vote on the petition drive. If the officers turn thumbs down, Rivera said, he will abandon the effort.

Rivera, who owns a Dade furniture manufacturing company, said the assembly's attorneys are looking into whether the city manager legally used city time to write and present a controversial speech last week.

In the speech — given on the eve of President Reagan's visit to Miami in honor of Cuban Independence Day — Gary likened the President to a member of the Ku Klux Klan.

"The only difference between Mr. Reagan and the fellows who wear white sheets at night in Mississippi is that Mr. Reagan doesn't wear a white sheet and he doesn't terrorize black folks at night," Gary said. "Instead, he wears a suit and a smile and legally terrorizes black folks day and night, in the name of the President of the United States."

Members of Dade's black community applauded Gary's comments in a speech before 250 blacks in a Liberty City community center on the third anniversary of the McDuffie riots.

But Dade's Cuban community, which heavily supports Reagan for his strong anti-Castro line, demanded that Gary apologize publicly.

Gary called a press conference on Friday and apologized, not for mak-



City Manager Howard Gary

ing the statements, but for the way some people interpreted — and, he said, misinterpreted — his words.

Some Hispanics, including Miami Mayor Maurice Ferre, were pacified.

"It's done. It's over," Ferre said. "The man has apologized. Now we need to turn the page of a new chapter and get on to constructive things rather than sitting around polarizing this community."

Dade realtor Carlos Salman, former chairman of the local Reagan-Bush 1980 election campaign and a founder-director of the 300-member Cuban American National Foundation, also said he was satisfied by the apology. Salman had helped organize another petition drive, aimed at forcing Gary to apologize.

"I was never going to call for his job. I just wanted him to apologize," Salman said. "The man has already apologized and I'm satisfied. I just wish he would be a little more moderate in his statements in the future."

But Rivera disagreed. He said an apology does not reverse the damage done by a high-ranking city official who "is trying to polarize the community at a time when blacks and Cubans need to work together in unity."

Rivera said he hopes to bring the signed petitions to the May 31 City Commission meeting, and to ask the commission to fire Gary.

Later this week, Rivera has scheduled a meeting with City Commissioner Joe Carollo, one of the most vocal opponents of Gary's remarks about the President. Rivera said he will ask Carollo to join his petition drive.

Carollo is out of town and could not be reached.

Gary had no comment about the dispute his remarks caused.

But black community activist Les Brown, the man credited with packing City Hall with busloads of blacks more than a year ago when rumors were flying of a move among City Commission members to fire Gary, vowed to mount another such demonstration.

If Rivera brings his petitions to City Hall, Brown said, he will extend another invitation to hundreds of blacks to the commission meeting. Brown, who has a program on radio station WEDR-FM, has used the dispute over Gary's remarks to fuel his massive local black voter registration drive.

"You need to register to vote so that we can vote people out of office who are trying to get rid of our black city manager," Brown shouted on the airwaves.

Ferre is steadfastly trying to stem trouble if the two groups meet at City Hall.

Determined to keep what he called a "circus" out of the City Commission meeting, Ferre yesterday promised to throw feuding blacks and Hispanics out of the City Hall commission chamber.

"I'm not going to permit a circus," Ferre warned. "As mayor of the city of Miami and chairman of that commission, I will not permit this kind of circus to go on. I hope that between now and tomorrow they will forget about it because two wrongs don't make a right and this community has been polarized enough."

"If this is what they want, we can have a boxing match at (Elizabeth) Vernick Gym," Ferre added. "Les Brown can put on his gloves and Santos Rivera can put on his gloves. But I'm going to throw them (both) out of the meeting. I will not permit that kind of a circus at a City Commission meeting."

Political terrorism enemy of freedom

Has Orlando Bosch sacrificed personal freedom for his anti-communism beliefs, or is he a fanatic who uses terrorist tactics with little if any regard for human life? Is Gaspar Jimenez a terrorist or an anti-Castro freedom-fighter?

To some extent, the answers to these questions depend on one's perspective. Cuban-Americans in Miami are as diverse as any other ethnic group. Yet the public hears only the noisiest elements. It seems fair to say, however, that many Cuban-Americans believe Bosch and Jimenez are freedom-fighters devoted to liberating Cuba from communism. But their reasons for holding that belief probably differ widely.

Some Cubans actively carry the same torch as Jimenez and Bosch. Others do so more passively, with words, not actions. Still others, ruled by the deep emotions of a people forced to leave their native country, confuse their love of homeland and opposition to communism with support for those who would use any means, anywhere, to free Cuba.

Other Cubans remain mute publicly because they are afraid to say what they think; they fear being labeled Communist if they oppose terrorism; they fear retaliation although they know how the anti-Communist fervor can be manipulated and exploited by some elements to conceal extortion and other forms of criminal activity.

Anti-communism fervor exploited

The debate about whether one person is a terrorist or another person a freedom-fighter will continue as long as the argument focuses on labels, not personal conduct. The debate will continue as long as the kind of conduct that creates the need for the distinction is encouraged by irresponsible local politicians who actively feed the anti-Communist fervor for political gain, or by others who remain silent. The debate will rage as long as the Reagan administration exploits the fervent anti-communism of Cuban-Americans in its search for a workable Central America policy that in its present form will only encourage communism.

The question of whether Jimenez and Bosch are terrorists or freedom-fighters arises because the emphasis is on labels rather than behavior, because the creation of a cause leads to the belief that the end justifies any means. Under such conditions, the law becomes the enemy of the people, not their protector, and so the law is widely demeaned and protects no one.

Gaspar Jimenez is a convicted terrorist. He returned to Miami last week after being deported from Mexico where he had been imprisoned for the attempted kidnaping of the Cuban consul in Merida, Mexico, and the killing of the diplomat's bodyguard in 1976.

Jimenez served eight months in a Mexico prison in late 1976 and early 1977 before escaping and returning to Miami. He was arrested in Miami in 1978 after the Mexican government filed for his extradition. He was imprisoned here until February of 1981, when he was returned to Mexico. Jimenez was questioned in 1977 by a federal grand jury in Miami investigating terrorist activities — including the bombing of former WQBA newsmen Emilio Millan.

Orlando Bosch also is a convicted terrorist. In 1968, he was convicted of using a homemade bazooka to launch a shell at a Polish freighter docked at Dodge Island. Sentenced to 10 years in a federal prison, he served four years until he was paroled in 1972.

Bosch remained a key figure in anti-Castro terrorist activities until he was arrested in Venezuela in 1977 and charged with three others in the bombing of a Cubana airlines plane on Oct. 6, 1976, that killed 73 persons. A Venezuelan military court in 1980 acquitted Bosch and the three other men of the bombing, but mainly for political reasons he has been kept in prison since then while authorities decide which court will review the case as required by law. The Venezuelan Supreme Court last week said Bosch's case would be reviewed by a civilian court, not a military one.

Fear, force must not rule Miami

What happens when those who use violence to a goals are certified as heroes? What happens when terrorism is viewed as freedom-fighters, when runaway emotions lines between cause and effect, when the end is all that counts?

What happens is that some people use weapons to intimidate others who disagree with them. What happens is that free speech and the process by which ideas and opinions are openly discussed become restricted, stunted, because force becomes the ultimate arbiter of the political debate and force rule Miami, political freedom will effectively be destroyed.

The threats have already occurred, many times. recently when Omega 7, an anti-Castro terrorist group, threatened death to those who promise U.S. policy in Central America. Even worse, several Spanish-language radio stations aired the communiqué wielding a high-powered rifle fired over a crowd of anti-Communist Cuban-Americans thinking they were anti-administration protesters. It was dumb luck that hurt.

But what about the next time? And there will be unless responsible citizens of every stripe begin to distinguish between being philosophically opposed to communism and violating the law to express that opposition.

The right to demonstrate and speak out for or against philosophy, political party or government policy is a part of American freedom that belongs to everyone, not just Cuban-Americans.

To attempt to silence political opposition by force is a tactic of dictators. Such a tactic will lead to violent confrontations: It would destroy freedom in principle and in practice, a development tolerated from any source, least of all by those who are fighting to free their native land.

Miami Herald / Friday, June 14, 1980

The Miami Herald

RICHARD G. CAPEN, Jr., Chairman and President
JOHN CARTON, President and General Manager
JOHN M. LEE, Vice President and Managing Editor
J. HEATH, Managing Editor

End the Terrorism

AS RUMORS of more unsubstantiated bomb threats circulate in Little Havana, the entire Miami community should face the seriousness of the latest rash of terrorism to strike the city. The bombing at Continental National Bank during Memorial Day weekend was the third incident in five months.

A handful of responsible community leaders already have spoken out to denounce these bombings, which seem related to Cuban-exile politics. It is imperative, however, that every civic leader, and especially those born in Cuba, speak out forcefully against the cowardly and unAmerican injection of violence into Miami's civic and political life.

Such public statements are critical at any time, but especially now on the eve of the Miami city-commission and mayoral campaigns. Exile politics can be decisive in city elections. Many constituents demand that municipal candidates prove their loyalty to the anti-Castro, anti-Communist cause. Those demands are as legitimate as any other expression of constituent concern so long as they remain within the boundaries of American democratic traditions.

Those boundaries do not include, cannot accept, and must not permit the tolerance of violent means of political expression. Mayor Maurice Ferre and challengers Manolo Reboso and Mike Simonhoff all owe the community an unequivocal and bilingual denunciation of the bombers. That rejection should extend to the many who help shield the violent few from police, FBI, and Federal firearms investigators. Commissioner Joe Carroll, who milks the anti-Castro senti-

ment of his constituents to the brink of demagoguery, also owes the community a public anti-terrorist commitment. So do his several opponents. Continental Bank is presumed to be a target because its vice chairman, Bernardo Benes, was instrumental in opening the 1978 dialog with Cuba. Padron Cigar Company, another target, is owned by another participant in that dialog. The third victim this year was Paradise International, a travel agency that books trips to Cuba.

Some Cuban-Americans blame the bombings not on anti-Castro extremists but on the Cuban Communist leader himself. That is a plausible, though unproved, theory. Certainly it is reasonable to assume that there are some Castro agents in Miami. Maybe he plots these bombings in order to drive wedges between Cuban-Americans and their neighbors.

If so, that is all the more reason for Cuban-American leaders and all other public officials to denounce the actions. For the result of divisiveness surely occurs, whether planned or not, when the majority of local Hispanics is perceived by the larger community to accept or even to applaud terrorism and intimidation on U.S. soil.

"Silence gives consent," according to Pope Boniface VIII's favorite maxim from Canon Law. It's time for Miami and those who purport to be its leaders to shed that cloak of consenting silence and give full voice to the demand for an end to terrorists and their tactics in this community.

DD

AFFIDAVIT

STATE OF MICHIGAN)
) ss.:
COUNTY OF WAYNE)

ANDREW PULLEY, being duly sworn, deposes and says:

1. I submit this affidavit to provide an example of harassment directed at Socialist Workers Party candidates. I make this affidavit based upon personal knowledge.

2. In 1988, I was the Socialist Workers Party candidate for Governor of West Virginia. On April 16, 1988 I was campaigning in Charlestown, West Virginia and had set up a literature table in a public park in the downtown area along with a campaign supporter. We were approached by police officers who after looking at the literature instructed us to remove our literature table. One of the officers said to us "I don't like what you have on your table and I order you to take it down" or words to that effect. The police officers remained watching us as we dismantled the table and clearly intimidated any individuals from stopping to talk to us.

3. The next week, I returned to the same location accompanied by the SWP candidate for Congress. Shortly thereafter, three police cars and a patrol wagon arrived and remained in the area observing us. After approximately 2-1/2

hours, the police instructed us to remove the table under the threat of arrest, indicating that it was up to them to decide where we could distribute campaign literature in Charlestown.

Andrew Pulley
ANDREW PULLEY

Sworn to before me this
2nd day of June, 1990

Dawn A. Lalator
Notary Public

MALCOMB GY, ACTING WAYNE GY, MI
Comm. Expires 6-4-91

EE

W. Va. cops harass candidate

BY JIM ALTENBERG

CHARLESTON, W.Va. — On April 16, three Charleston cops forced Andrew Pulley, Socialist Workers Party candidate for governor of West Virginia, and a supporter to take down a campaign literature table they had set up in Slack Plaza, a downtown park.

"I don't like what you have on your table," one cop said, "and I order you to take it down." The police threatened to arrest the socialists and confiscate the literature and table. When the table was taken down, the cops remained to watch and intimidate people who wanted to talk with Pulley.

Pulley and Jim Gotesky, SWP candidate for U.S. Congress, 3rd C.D., immediately held a news conference protesting the harassment. "It is no accident," they said, "that this occurs just days after the SWP publicly announced our slate of candidates and our lawsuit against West Virginia's undemocratic election laws. Now, the authorities are trying to trample on the Bill of Rights and rule ideas they 'don't like' off the streets."

A week later, socialist campaigners, in-

cluding Pulley and Gotesky, returned to Slack Plaza. So did the police, complete with three squad cars and a patrol wagon to force the socialists off the street. The candidates refused to stop campaigning.

Despite the police intimidation and the large police wagon, the socialist table was crowded with people eager to discuss the candidates' proposals to fight for jobs and democratic rights.

After about two and a half hours, the cops forced the socialists to take their table down. They declared, with renewed threats of arrest, that only the police could determine if and where distribution of campaign literature could take place in Charleston.

"We reject the totalitarian idea that the chief of police may determine where a candidate for public office — Democrat, Republican, or socialist — can campaign," Gotesky said. "In the interest of an open campaign atmosphere, we demand that Charleston Mayor Charles Gardner and the chief of police call an immediate halt to the harassment of the Socialist Workers candidates and campaign activities."

The socialists announced that they plan to continue campaigning in Slack Plaza.

FF

MARK HENRY SATINOFF
Appellant

v.

COMMONWEALTH OF PENNSYLVANIA,
Appellee

IN THE COMMONWEALTH COURT
OF PENNSYLVANIA

No. 130 C.D. 1989

BEFORE: HONORABLE JAMES GARDNER COLINS, Judge
HONORABLE BERNARD L. MCGINLEY, Judge
HONORABLE ALEXANDER F. BARBIERI, Senior Judge

ARGUED: MAY 1, 1989

This is an appeal by Mark Henry Satinoff (Appellant) from the order of the Court of Common Pleas of Fayette County (trial court) sentencing the Appellant to pay certain fines and court costs for violation of the Borough of Masontown's (Borough) Peddling and Soliciting Ordinance (Ordinance).

On May 2, 1987, Appellant was arrested by Lt. Robert L. Kelly of the Masontown Police Department for violation of the Borough's Ordinance. The Ordinance requires that any person engaged in peddling, as defined in the Ordinance,¹ apply for a license, the fee for which is \$20 per day, for the privilege of peddling between the hours of 9:00 a.m. and 5:00 p.m., Monday

¹ Peddling is defined in the Ordinance as:

Engaging in peddling, canvassing, soliciting or taking of orders, either by sample or otherwise, for any goods, wares or merchandise upon any of the streets or sidewalks or from house to house within the Borough of Masontown. The word "peddling" shall not apply to:

- (1) Farmers selling their own produce.
- (2) The sale of goods, wares and merchandise donated by owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
- (3) Any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk or milk products.

through Saturday. On the date of the arrest, Appellant was distributing the Social Workers Party's newspaper, "The Militant," "for a donation of \$.75 or whatever pocket change they had" without a license. (Notes of Testimony, March 3, 1988, (N.T.) at 15.)

The district justice found Appellant guilty of violating the Ordinance and Appellant appealed. The trial court conducted a de novo hearing and found that Appellant's activity in the Borough on the date of arrest was not for the sole purpose of disseminating literature on the political ideas of the Socialist Party. The trial court found that Appellant sought to sell subscriptions to The Militant and was successful. The trial court determined that Appellant's conduct was one of a commercial nature beyond the protection of first amendment political speech. The trial court dismissed Appellant's appeal and reinstated the fine and costs imposed by the district justice.

Initially, we note that the burden of proving that a statute is unconstitutional is on the challenger. Morris v. Public School Employees' Retirement System, 114 Pa. Commonwealth Ct. 369, 538 A.2d 1385 (1988). A statute is presumed to be constitutional, and the burden of proving otherwise is heavy. Morris. Furthermore, any doubts as to a statute's constitutionality are to be resolved in favor of sustaining the

statute. Packer v. Department of Labor and Industry, 115 Pa. Commonwealth Ct. 93, 540 A.2d 313 (1988).

: On appeal Appellant argues that : 1) he was engaged in political activity and not in commercial activity; 2) the imposition of the \$20 licensing fee to his political activity renders the Borough's Ordinance unconstitutional; and 3) the trial court erred in refusing to permit the Appellant to testify to his prior experience in selling The Militant in similar communities.

The freedom of speech and of press is secured by the First Amendment against abridgement by the United States and is similarly secured by the Fourteenth Amendment against abridgement by a state. Schneider v. Irvington, 308 U.S. 147, 60 S. Ct. 146, 84 L. Ed. 155 (1939).² Also, the right of freedom of speech and freedom of press has broad scope which embraces the right to distribute literature and the right to receive it. Martin v. Struthers, 319 U.S. 141, 63 S. Ct. 667, 87 L. Ed. 1313 (1943).³

² In Schneider, the ordinance required door to door canvassers, solicitors, distributors of circulars, etc. to obtain a permit from the Chief of Police. A member of the Jehovah's Witness religion was arrested for canvassing without the required permit. The U.S. Supreme Court held the ordinance was unconstitutional because of the unbridled discretion which was placed in the Chief of Police.

³ In Martin, the ordinance flatly prohibited door-to-door distribution of handbills, circulars or other advertisements. The U.S. Supreme Court held the ordinance to be unconstitutional as applied to the activities of a Jehovah's Witness. The U.S. Supreme Court determined:

continued on next page

However, the United States Supreme Court has determined that the sale of magazines and periodicals are in the area of commercial activity and beyond the exercise of protected First Amendment political speech.⁴

The record clearly indicates that Appellant's primary purpose was to discuss political ideas and topics contained in The

continued from previous page
Door-to-door distribution of circulars is essential to the poorly financed causes of little people. Freedom to distribute information to every citizen wherever he desires to receive it is so clearly vital to the preservation of a free society that, putting aside reasonable police and health regulations of time and manner of distribution, it must be fully preserved.

Id. at 146-147, 63 S. Ct. at 865.

⁴ In Breard v. Alexandria, 341 U.S. 622, 71 S. Ct. 920, 95 L. Ed. 1233 (1951), Jack H. Breard, a regional representative of a Pennsylvania corporation, was arrested while going from door-to-door in the City of Alexandria, Louisiana, soliciting subscriptions for nationally known magazines. The arrest was solely based on his failure to obtain the prior consent of the owners solicited as required by the ordinance. The Supreme Court upheld the constitutionality of the ordinance and stated:

We agree that the fact that periodicals are sold does not put them beyond the protection of the First Amendment. The selling, however, brings into the transaction a commercial feature. The First and Fourteenth Amendment have never been treated as absolute. Freedom of speech or press does not mean that one can talk or distribute where, when and how one chooses. Rights other than those of the advocate are involved. By adjustment of rights, we can have both full liberty of expression and an orderly life.
Id. at 642, 71 S. Ct. at 932.

Militant with the residents of the community.⁵ Although Appellant testified that The Militant cost \$.75 a copy he would accept less than that amount and offered older copies of The Militant for free.⁶ Appellant also testified that he had never

5 Mr. Galper to Appellant:

Q: What was your purpose in going to Masontown that day?

A. My purpose was to have conversations with residents of the community about the political ideas contained in the newspaper The Militant and the political ideas of the Socialist Workers' Party. We were also having a public forum that night at our office in Morgantown, which I invited people to attend to find out further if they had any questions about our political views.

....

Q: Mr. Satinoff, can you tell us what your primary purpose was and how -- explain whatever role The Militant played in that purpose?

A. The Militant is one of the many tools that I have to help get out my ideas and explain my ideas. That's not the only method, but I do it -- I can only be with a person for a limited amount of time. It's a piece of literature that I can leave with them so that after I've left their house they have something more in depth to look over and think about.

N.T. at 15, 23.

6 Mr. Galper to Claimant:

A: [I] had copies of The Militant newspaper, which they could purchase for a donation of \$.75 or whatever pocket change they had. I also had older copies of the newspaper which I freely left for no charge at all.

continued on next page

generated \$20 in sales in other communities and that he was unaware the Borough required a \$20 licensing fee before going door-to-door.⁷ Further, Appellant was not paid to sell The Militant and his sales on the date of arrest amounted to only \$5.00. (N.T. at 23, 24.) The small monetary gain from selling The Militant cannot be equated to the commercial activity of door-to-door selling of subscriptions to national periodicals, newspapers and magazines.

Additionally, Appellant contends that the application of the \$20 licensing fee to him and other political party members renders the Ordinance unconstitutional because it makes it

continued from previous page

Q: The back issues would have been free of charge?

A: That's correct.

N.T. at 15.

⁷ Mr. Galper to Claimant:

Q: Have you ever generated \$20.00 in going to a community under circumstances similar to those in which you went to Masontown on that Day?

A: No.

Q: Were you -- prior to your arrest were you ever advised by anyone that there was an ordinance which required you to pay a \$20.00 licensing fee and be licensed before going door-to-door?

A: No, I was not so advised.

N.T. at 27.

impossible to disseminate political ideas and speech through door-to-door solicitation. We agree.

: A municipality is constitutionally permitted to enact regulations in the interest of public safety, health, welfare or convenience. Schneider. Such regulation in the form of an Ordinance must be reasonably drawn and rationally related to the goals of the community. While the Commonwealth contends that the Ordinance is designed to ensure community safety and regulate solicitations and sales to reasonable hours, the Ordinance abridges upon the constitutional liberty to impart information through speech and the distribution of literature. Schneider. Appellant testified that he only generated \$5 in sales on the date of the arrest and that he never generated \$20 in sales. (N.T. at 27.) The \$20 licensing fee is not a nominal fee imposed as a regulatory measure calculated to defray the expense of protecting those at home against the abuses of the solicitor. Murdock v. Commonwealth of Pennsylvania, 319 U.S. 105, 63 S.Ct. 870, 87 L.Ed. 1292 (1943). Further, the Borough failed to present any evidence that the licensing fee defrayed the expense of policing the activities in question or covered the expense in administering the licensing fee. Additionally, Appellant's activities took place within the permitted hours and there were no allegations that his activities were a cover for any wrongdoing.

Therefore, the imposition of the \$20 licensing fee upon Appellant's political activities is violative of the First

Amendment to the United States Constitution and Article I, Section 7 of the Pennsylvania Constitution.⁸

Accordingly, we reverse the decision of the trial court.⁹


BERNARD L. MCGINLEY, Judge

⁸ Article I, Section 7 relevantly provides: "[T]he free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty."

⁹ Because of our resolution of the Appellant's constitutional argument, we do not reach the merits of whether the trial court erred in refusing to permit certain Appellant testimony.

MARK HENRY SATINOFF
Appellant

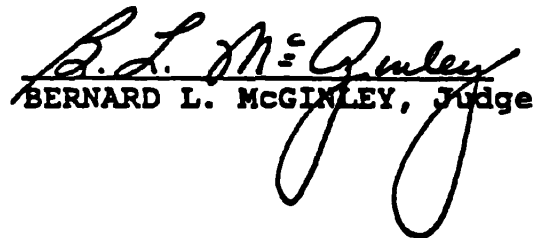
v.

COMMONWEALTH OF PENNSYLVANIA,
Appellee

: IN THE COMMONWEALTH COURT
: OF PENNSYLVANIA
:
:
:
:
: No. 130 C.D. 1989

ORDER

AND NOW, this 7th day of August, 1989, the order of the Court of Common Pleas of Fayette County at No. 248 S.D., 1987, dated December 19, 1988, is reversed.


BERNARD L. MCGINLEY, Judge

CERTIFIED FROM THE RECORD
AND ORDER EXIT
AUG 7 1989


Deputy Prothonotary - Chief Clerk

GG

HH

News from the Socialist Workers Mayoral Campaigns
Minnesota Socialist Workers Campaign Committee
508 North Snelling Avenue, St. Paul, MN 55104; (612) 644-6325
Denise McInerney for Minneapolis Mayor
Wendy Lyons for St. Paul Mayor

St. Paul Pioneer Press & Dispatch
February 16, 1989

Socialist Workers party claims Minneapolis police harassment

Members of the Minnesota Socialist Workers Campaign Committee have filed a complaint with the Minneapolis Police Department, saying they received harassing, obscene mail in a department envelope.

According to the committee, a coupon attached to a flyer complaining of police brutality was returned Saturday to the committee's office at 508 North Snelling Ave. in St. Paul with an obscene word rubber-stamped on it.

"We're quite angry about it,"

said Wendy Lyons, Socialist Workers Candidate for mayor in St. Paul. "We will not be intimidated."

Sgt. Roger Willow, head of the Minneapolis Police Department's Internal Affairs Unit, said his unit will be investigating the complaint "like any other."

"It's obviously not appropriate behavior," Willow said.

The complaint could come under the harassment category or that of behavior unbecoming an officer, Willow said.

II

Minnesota Socialist Workers Campaign Committee

508 North Snelling Avenue, St. Paul, MN 55104; (612) 644-6325

Denise McInerney for Minneapolis Mayor

Wendy Lyons for St. Paul Mayor

February 11, 1989

Police Chief John Laux
Police Department
Minneapolis, MN 55415

Dear Chief Laux:

On Saturday, February 11 our campaign headquarters received a coupon sent by the Minneapolis police in an official envelope, stamped with their postal meter.

The coupon, clipped from our statement issued February 6th protesting police violence, was stamped "BULLSHIT" all over it. This campaign statement had been widely distributed at the protest against police violence at Mayor Fraser's office on Monday, February 6.

We protest this harassment and implied threat designed to intimidate all who are speaking up against the killing of Lloyd Smalley and Lilian Wiese, the beating of the Black students at the Embassy Suites Hotel, and the many other acts of police violence against working people of all nationalities that are coming to light. Organizers of the demonstrations and meetings against police violence have also reported being harassed by police.

We demand this violation of the lawful, constitutional right to protest and speak out cease.

Sincerely yours,

DMcInerney

Denise McInerney
candidate for Minneapolis mayor

Wendy Lyons

Wendy Lyons
candidate for St. Paul mayor

cc: Mayor Fraser, Minneapolis Civil Rights Commission,
Minnesota Civil Liberties Union

Enclosed: copy of Police Dept. envelope and coupon -- original available for viewing at Socialist Workers Campaign headquarters.

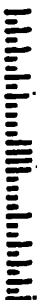
Envelope from Minneapolis Police Department, PO Meter 6805569, and enclosed coupon received at the Socialist Workers Campaign, Saturday, Feb. 11, 1989

minneapolis
city of lakes



Socialist Workers Campaign
508-North Snelling Ave.
St. Paul, Mn. 55104

POLICE DEPARTMENT
130 City Hall • Minneapolis, Minnesota 55415
AFFIRMATIVE ACTION EMPLOYER

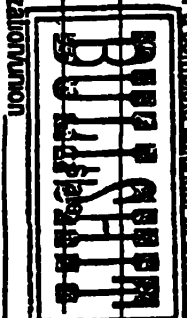


Clip and mail to: Socialist Workers Campaign, 508 North Snelling Ave, St. Paul, MN 55104; (612) 644-6325

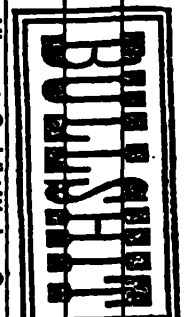
- ☐ Please send more information about the Socialist Workers campaign.
- ☐ Put me on the mailing list to receive information about upcoming forums, films, and other special events.
- ☐ I am interested in helping campaign for the socialist candidates -- contact me at the phone listed below.
- ☐ Enclosed is \$4 for a 12 week trial subscription to *The Militant*, the weekly newspaper of the socialist campaign.
- ☐ Enclosed is \$3 for six issues of *Perspective Mundial*, the monthly magazine in Spanish.
- ☐ Enclosed is a contribution of \$_____ (Checks to Minnesota Socialist Workers Campaign Committee)
- ☐ I am interested in joining the Young Socialist Alliance, a revolutionary socialist youth organization.
- ☐ I would like to organize a meeting for one of the candidates. Please contact me.

Visit our Campaign Headquarters in the Midway area of St. Paul. Pathfinder Bookstore is also located here featuring a wide selection of book and pamphlets on politics and history. On most Saturday evenings, the Militant Forum holds programs on a wide variety of political topics. February is Black History Month with a series of forums on the history and strategy of fighting racism. Call for a complete calendar of events.

Name _____
City _____



Address _____
Phone _____
ZIP _____



School/Organization/Union _____

JJ

Houston young socialists defend rights

BY GREG ROSENBERG

HOUSTON — The Young Socialist Alliance here has turned around an attempt to prevent it from engaging in political activity at the University of Houston.

In early November the YSA was decertified as a student organization and the campus police were harassing individual YSA members. Through a campaign to mobilize the support of other students for democratic rights, the YSA has forced university officials to back down.

Attempts to force the YSA off campus as an organization began October 28 when this reporter was sitting at a YSA literature table at the University Center. A student who disagreed with the YSA's opposition to the U.S. war against Nicaragua and the organization's anti-apartheid stand approached the table and began to scream that the YSA had no right to be on campus.

Officer Moore, a university cop, accompanied by Rosie Cala, campus reservations office manager, told the YSA to shut the table down, citing technical violations of campus rules. The organization's campus status was revoked.

Miki Akano, a member of the YSA and a student at the university told the *Militant*, "When we sat down with representatives of other groups at a meeting, we found that recently there have been a number of at-

tacks on the rights of students to be political."

The YSA won immediate support from the National Organization for Women campus chapter, the General Union of Palestinian Students, officers of the Black Student Union, Concilio (a Chicano student organization), the Gay and Lesbian Alliance, and the Democratic Socialists of America Youth Section campus chapter.

Intimidation of politically minded students had gone too far for one *Militant* subscriber and graduate student in the Department of Philosophy.

He had been speaking at a forum against President Reagan's "Star Wars" plan when an FBI agent got up in the middle of the event, flashed his badge, and began to hand out pro-Star Wars literature.

This student eagerly joined the fight to defend the YSA's rights. He began to organize support among students and faculty. Professors and department heads started to call the administration demanding an explanation and insisting that the YSA's recognition be reestablished and that the harassment stop.

Feeling the heat, it didn't take long before the assistant director of campus activities reinstated the YSA's right to function on the campus and promised a written reprimand to the University of Houston Police Department.

KK

YSA campaigns in Philadelphia, Berkeley

BY JAMES THORNTON

PHILADELPHIA — A 28-year-old garment worker who is a member of the Philadelphia chapter of the Young Socialist Alliance is campaigning for mayor on the Socialist Workers Party ticket.

Richard Gaeta is a member of Amalgamated Clothing and Textile Workers Union Local 170.

During a six-week effort, supporters of Gaeta's campaign, including the YSA chapter, gathered 6,000 signatures on petitions to place him on the ballot. They spent more than 600 hours signing up working people across the city.

Supporters also gathered signatures at their places of work. About 80 of Gaeta's coworkers at Good Lad, a maker of children's garments, signed up.

Signers included several sailors from the USS *Kitty Hawk*, which was docked at the navy yard here.

One young worker expressed amazement that a worker was running: "I thought you had to be rich to run. I'll sign."

Another said, "He's a union member, against apartheid and against the war in Nicaragua — sure, I'll sign."

Gaeta is challenging Mayor Wilson Goode, the Democratic candidate, and former mayor Frank Rizzo, who is the Republican candidate.

The petitions were submitted to the city's board of elections July 31. Two weeks later, the board reported that Gaeta had secured a place on the November ballot.

Gaeta's campaign has won a good response from working people here, but has faced some harassment from other quarters. On July 9 two campaign workers, who had set up a literature and petitioning

table outside the Reading Terminal Market, were ordered to leave by Reading Co. security guards. The armed guards ordered them out of the area, even though the table was on a public sidewalk.

About two weeks later, a socialist literature table at the "Italian Market" in South Philadelphia was overturned by thugs, while cops stood by and made no effort to stop the violence.

The campaign committee filed a formal complaint with the police and wrote letters of protest to Mayor Goode and Police Commissioner Kevin Tucker.

The Young Socialist Alliance here is urging youth to support Gaeta. The YSA is distributing an open letter at plant gates and on high school and college campuses.

"What is the difference," the letter asks, "between Mayor Goode, who ordered a bomb dropped on the Black community, and former mayor Rizzo who is infamous for having encouraged police assaults on Black youth?"

"Youth subjected to strip searches and paddling in schools and young workers at the bottom of the wage scales are the same youth the rulers would like to send to die in Nicaragua."

TAMAR ROSENFELD

BERKELEY, Calif. — Against the backdrop of a banner bearing the names of

Pathfinder Books and the Young Socialist Alliance, supporters of the YSA set a big literature display daily at the University of California campus here during the week of classes.

The hottest sellers were *Two Speeches by Malcolm X* and Che Guevara's *Socialism and Man*. Two copies of *New Internationalism* featuring "The Second Assassination of Maurice Bishop," by Steve Clark, were sold. Sales totaled \$428 over the week.

Many students checked out the display of colorful YSA T-shirts, and during the week, we noticed a number of people wearing them on campus. The most popular were those with portraits of Malcolm X and Che Guevara.

By the end of the week, the table had become popular as a place to ask questions and exchange views about political issues. Many students wanted to know: "Is socialism and communism all about..."

Some young women were attracted to the table by the array on literature on the roots of the oppression of women.

A reception was held during the week for Peter Anastos, Socialist Workers Party candidate for mayor of San Francisco, at the campus cafeteria.

One of the students who attended the reception later came to the classes on socialism held that weekend at the Pathfinder bookstore in Oakland.

LL

The Militant and the Miners

Comment by Martin McLaughlin

An article on the Pittston miners strike, published in the September 15 issue of *The Militant*, weekly newspaper of the police-controlled Socialist Workers Party, attempts to cover the tracks of the SWP and present it as a critic of the right-wing policies of the UMWA bureaucracy.

The article is in the form of an interview with John Hawkins, a senior SWP leader and former member of the party's Trade Union Commission who now works as a miner at the Jim Walter No. 5 mine in Brookwood, Alabama, where he is a member of UMWA Local 2365. In the course of the page-long interview, Hawkins criticizes the selective strike policy adopted by the Trumka leadership in 1984 as divisive and weakening the union, calls the outcome of the 1984-85 strike at A.T. Massey a defeat which had a "demoralizing effect" on the union, says that the ending of the miners wildcat sympathy strike this summer "reflects that some of the independence of the UMWA rank and file has been given over to the officialdom," and concludes that most miners have no confidence in the combination of civil disobedience and a "corporate campaign" advocated by the UMWA leadership, which already failed at Massey.

Hawkins's comments represent a two-faced attempt by the SWP to have its cake and eat it too: he makes a series of very mildly-worded criticisms of the policy of the UMWA over the last five years, while never naming any of the "officialdom" who were responsible for betraying the struggles of the miners. The full-page article entitled "Stakes in Pittston coal miners' strike" never mentions the name of UMWA President Richard Trumka or Vice President Cecil Roberts.

Moreover, the article completely covers up the role of the SWP throughout these years, which was to glorify the right-wing policies of Trumka and to present the UMWA bureaucracy under his leadership as the vanguard of the labor movement. The SWP hailed Trumka for supposedly defeating concessions demands in 1984, when he abandoned the industrywide strike in favor of isolated selective strikes, and in its coverage of the Massey strike, uncritically reproduced Trumka's lying claims that the strike had ended in "victory." The *Militant* never attacked Trumka for his silence on the frame-up and jailing of the four A.T. Massey strikers for prison terms of 35, 40 and 45 years.

Since the strike began at Pittston on April 5, *The Militant* has not breathed a word of criticism of the Trumka bureaucracy and its policy of selective strikes, pacifist civil disobedience and "corporate campaign" protest. When the miners wildcat strike began June 12 and spread throughout the Eastern coalfields, *The Militant* never referred to it as a wildcat, presenting it as unofficially authorized and even inspired by Trumka.

When Trumka intervened directly to suppress the wildcat strike, by turning it into a union-sanctioned "memorial period" followed by a return to work, *The Militant* covered up for his sabotage. The *Militant* article on Trumka's back-to-work order, published July 21, carried the headline, "Miners' union calls holiday to step up Pittston fight," and declared that "a three-day holiday was called by Richard Trumka, president of the United Mine Workers of America, to continue the walkout of some 37,000 miners in eight states that began in mid-June."

Just as they have in the Eastern Airlines strike, SWP members have worked in close alliance with the AFL-CIO and UMWA bureaucracy in covering for their betrayal of the struggle at Pittston. Jim Gotsky, an SWP leader in Charleston, West Virginia, served as the chairman of a support committee which organized the June 11 rally in Charleston, and was publicly thanked from the platform by UMWA officials. While goon squads organized by Trumka and Roberts launched violent physical assaults on

salesmen for the Bulletin, at the June 11 rally and at other times on the picket lines, these thugs for the bureaucracy welcomed salesmen for *The Militant* and gave them free rein.

The Militant now publishes a timid criticism of the UMWA bureaucracy's policy only because the SWP leadership is well aware of the massive hostility to Trumka building up in the ranks, and seeks to position itself at a slight distance from the UMWA president, in order to better deceive the rank and file miners.

There is another side to this cynical maneuvering, even more sinister and reactionary. The Socialist Workers Party is not only a political servant of the trade union bureaucracy. As demonstrated by the investigation of the Trotskyist movement into *Security and the Fourth International*, and the Gelland case (see pp. 11-15), the SWP is an agency of the capitalist state for spying on the labor movement.

Members of the SWP who obtain industrial jobs, regardless of whether they are themselves police agents or merely their dupes, conduct their political work in the unions under the direction of the police-controlled leadership of the SWP. All the information which they gather in the course of their union activities, including the names of union militants and radical-minded workers, ends up being tunneled through the police agents in SWP headquarters to the government and the corporations.

John Hawkins is only one of more than 50 SWP members who have been hired by the coal bosses during the 1980s, according to reports published from time to time in *The Militant*. Virtually all were publicly identified as SWP members in *The Militant* long before they took jobs in the mines.

Miners are familiar with the ruthless anti-unionism and anticommunism of the coal bosses, who maintain a permanent blacklist of all miners suspected of militant activity—let alone those who publicly proclaim themselves to be "communists," as SWP members hired in the mines regularly do. The only logical explanation for the mass hiring of SWP members in the mines is that they were hired by the coal bosses, not despite the fact of their known political affiliation, but because of it, to provide an industrial spying service under "socialist" cover.

The clearest example of this is the decision of managers at Exxon's Monterey No. 1 mine in Albers, in the southern Illinois coalfield, to hire no less than nine SWP members in the course of the last decade. All were members of the St. Louis branch of the SWP, including Mary Anderson, the first to be hired in 1981 after being the SWP's candidate for governor of Missouri in 1980—certainly a dubious credential from the standpoint of the average anticommunist personnel boss!

Following him in the now well-worn path from St. Louis to Albers were Ann Riley Owens, hired in 1985 after being fired at the McDonnell Douglas aircraft plant in St. Louis in 1981 in a defense campaign publicized in *The Militant*; Bruce Kimball, Sheila Ostrow, Hilda Edler, Mary Zins, Bob Allen, Greg Rolaford and Kathy Sayers. Owens and Zins, at least, according to *The Militant*, are still at the mine, while the others appear to have moved on to new assignments.

The slight shift in *The Militant's* line on the miners' strike aims not only to preserve the paper's credibility in the eyes of miners, who are increasingly hostile to the Trumka bureaucracy, but to allow the SWP industrial spies to get closer to the movement building up in the ranks of the union. Coal miners must take warning: members of the SWP are working as part of an intelligence-gathering operation on behalf of the government and the coal bosses, and their activities should be treated accordingly.

MM

SWP mayoral candidate demands cops investigate campaign office attack

BY JANE HARRIS

NEW YORK — On May 18, socialist campaigners arrived at their headquarters, shared with Socialist Books, to find one of their 6- by 14-foot storefront windows shattered.

Upon entering, the socialists found the brick that had been thrown through the window. They immediately called the New York City cops, who initially refused to come to investigate the case.

Four hours later, after further pressure, the cops decided to show up. They filled out a brief report, then left, claiming they could do nothing unless a "pattern" was established.

Regarding a pattern, in a telephone interview with Socialist Workers mayoral candidate Andrea González who is in West Philadelphia investigating unprecedented cop terror, she pointed out, "The brick through the window of my campaign headquarters comes in the context of threats and attacks on meetings celebrating the 10th

anniversary of the Vietnamese revolution — including meetings at Socialist Workers campaign headquarters in San José [California] and St. Paul, Minnesota."

And, while the socialist mayoral candidate pointed out that at this point it was impossible to pin the attack on any specific individual or right-wing group, "it's not *our* job to know," she said. "The cops should investigate this attack immediately. If it had been [New York Mayor] Koch's or [City Council President and mayoral candidate] Bellamy's headquarters, you can bet there'd be cops buzzing all over the place five minutes after the crime."

The New York Socialist campaign organized a press conference May 20 to protest this attack.

New York socialists are urging campaign supporters to call the New York City police in protest and to urge them to take action.

Send messages to Police Commissioner Benjamin Ward, One Police Plaza, New York, N.Y. 10013.

Militant, May 31, 1985

NN